

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

22 February 1983

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fourteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Tuesday the 22nd February, 1983.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammit - Minister for Tourism and Sport
The Hon 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 R J Wallace CMG, OBE - Financial and Development Secretary
The Hon I Abecasis

OPPOSITION

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 8th December, 1982, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

Hon Members may remember that during the Christmas holidays we had a private visit from Mr Speaker Thomas from the House of Commons. I have received a personal letter from Mr Thomas and he ends the letter by saying: "It was also a great honour and privilege to meet your parliamentary colleagues who were good enough to assemble although it was a holiday period. I shall be grateful if you will convey my deep gratitude to the Assembly for the courtesies that were extended to me". I thought I would let you know that I had been asked to thank you all for your courtesy to Mr Speaker Thomas.

DOCUMENTS LAID

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

Reports of the Charity Commissioners for the years 1980 and 1981.

Ordered to lie.

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

The Traffic (Removal of Vehicles) Regulations, 1982.

Ordered to lie.

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

(1) The City Fire Brigade (Discipline) (Amendment) Regulations, 1982.

(2) The International Trunk Calls Charges (Amendment) Regulations, 1982.

Ordered to lie.

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

The Group Practice Medical Scheme (Amendment) Regulations, 1982.

Ordered to lie.

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

(1) The Banking Regulations, 1982.

- (2) The Government Debentures (Exemption from Estate Duty) Regulations, 1983.
- (3) Supplementary Agreement dated the 13th January, 1983, between the Government of Gibraltar and Lloyds Bank International Ltd.
- (4) Supplementary Estimates Consolidated Fund (No 4 of 1982/83).
- (5) Supplementary Estimates Improvement and Development Fund (No 4 of 1982/83).
- (6) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 5 of 1982/83).
- (7) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 6 of 1982/83).
- (8) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 2 of 1982/83).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.20 pm.

Answers to Questions 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.

HON CHIEF MINISTER:

Mr Speaker, before my colleague gets on to the statement, as I have explained to you for urgent inevitable reasons I have got to absent myself earlier than other Members today. I notice that the Order Paper provides that the first motion is my motion on the question of the Naval Base and there is another motion by the Hon Financial and Development Secretary which could take precedence, if you agree, and we could start with the other motion first thing tomorrow morning, if you reach that stage.

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MR SPEAKER:

I think that will be perfectly in order. I will then call on the Minister for Economic Development and Trade to make his statement.

HON A J CANERA

Thank you. Sir, Mr Speaker, on the 15th December 1982, it was announced that the British Government had agreed to contribute a total of £13 million towards the 1981/86 Development Programme. This sum included the £4 million interim aid tranche agreed in December, 1981. It was also announced that this welcome and appreciable contribution had fallen short of our request for an aid commitment of £18 million, and that the Gibraltar Government would therefore be urgently examining the implications for the programme as a whole.

I am now in a position to inform the House of the planned priorities for the Development Programme. Before doing so I wish to trace some background which is relevant to the direction of our future development spending. I will not dwell on the problems and frustrations which have characterised the 22-month delay for a final and comprehensive reply to the Aid Submission despatched as far back as February, 1981. I think that the Chief Minister, in reply to question number 342 of 1982 by the Honourable Leader of the Opposition, on the 8th December 1982, covered all the salient points. I must nevertheless emphasise that the delays and the constraints, particularly on the £4 million tranche, have created a damaging hiatus, seriously affecting the pace of development activity in Gibraltar. It has led to unemployment, it has disrupted planning and it has lost us valuable momentum. All this has distorted the allocation of scarce resources at a time when the economy has been facing growing uncertainty and contraction following the British Government's decision to close the dockyard and the aborted openings of the frontier. All this, Mr Speaker, has an important bearing on the rate of progress so far achieved and on the basis which is likely to govern the nature and speed of public sector development.

I would like, first of all, to remind and up-date the House of the position regarding projects which fell (and I am tempted to use the pun) under the £4 million allocation. Since the latter allocation in mid-December, 1981, a total of twelve project applications have been submitted to the Overseas Development Administration; five in January 1982, two in April 1982, one in May 1982, another in June 1982, one in August 1982, and two more in September 1982. Of these, five were formally rejected - Rosia Dale housing, the extension to Bayside School, pedestrianisation, the footbridge in Winston Churchill Avenue, and road and car-parking works connected with the expected frontier opening.

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A sixth application, that for the Motor Vehicle Testing Centre, will, we understand, shortly be rejected also. Five projects have been approved for a total sum of £2,374,000. These are the Viaduct Causeway, Mains Renewals, a sewerage pumping station at Catalan Bay, the unstuffing shed and Hesse's pumping station. The remaining project application relates to the distiller which is pending but with which I will deal later in some detail.

There can be no doubt that the Government has wasted little time and effort in submitting projects to the ODA in order to regenerate quickly the level of development activity in Gibraltar. I would go further Mr Speaker. There are clearly constraints on our own financial resources particularly on our borrowing capacity and liquidity. These constraints have been, and continue to be, exacerbated by the precarious and uncertain state of the economy which has been thrust into a crisis of confidence following HM Government's proposed closure of the Naval Dockyard in 1983. Despite these constraints, the Government decided to fund the Rosia Dale housing project and Boys' School extension scheme from local resources, imposing a contingent liability of some £2 million on the Consolidated Fund. It is also our intention to borrow up to £10 million as a further local contribution to development projects, of which some £5 million could be available for new projects. Up to now therefore - despite many set-backs - let it not be said that this Government has lacked effort on development.

I would like to move on now to the proposed approach for financing our priority projects in the light of available aid funds and the Government's projected resources. A total of £10,626 million of aid funds is now available. Earlier this month, officials of the ODA visited Gibraltar. Extensive and useful discussions were held on the development plan, particularly on the likely prospects for favourable consideration of individual projects. Having regard to the ODA's basic criteria to fund essential infrastructure and revenue-earning projects, broad agreement was reached on an order of priorities for the submission of projects. It has been decided to proceed in the first instance with a revised application seeking aid funds for the full cost of two distillers at a projected cost of some £6.8 million. This application replaces an original request sent a year ago seeking funds for one distiller which was subsequently held up following the award of a tender at a higher cost than estimated. The new application was sent on the 8th February, 1983, and will have to be considered and approved by the ODA Projects Evaluation Committee; fortunately, both the technical and economic advisers in ODA have had sufficient time and material to prepare an early report to this Committee and a reply is expected hopefully by the end of next month. Although the project is viewed sympathetically, it is not known whether any approval will extend to the full cost or the UK element

which is put at some £2.7 million. This leaves an aid balance ranging from around £3.8 million to £7.9 million. Three major projects are in line for submission under this amount but the priority and the extent of funding will obviously depend on the final outcome of the distiller application. The three projects concern further electricity generating plant, the port and pedestrianisation. The three schemes represent a total cost of around £8 million, but phasing of the port development schemes and pedestrianisation can accommodate a lower sum. Formal applications for these major project areas will have to fall in line with the known commitment on distillers. To avoid unnecessary delays, however, all three projects are currently being appraised by the ODA following detailed discussions in Gibraltar earlier this month. In addition a series of projects, including road widening in Sir Herbert Miles Road, tourist improvement schemes, car parking provision in the Engineer House area and the re-siting of Customs, will be held as "fall-back" projects pending the outcome of the first four priority areas which I have already outlined. I hope to be in a position to inform the House of the final allocation among individual projects over the next two to three months. I trust that the House will appreciate that whilst we are once again prepared to proceed on a series of projects, the actual order and size of aid projects depends on the ODA's evaluation.

In terms of local funding, Mr Speaker, the Government's priority will be in channelling substantial funds to housing. The ODA have repeated that the extent of their assistance on housing will be confined to the provision of specialist advice in the form of a housing consultancy. Consultants are in fact expected to be appointed shortly and should be in Gibraltar by the end of this month or the beginning of next month. In addition to on-going housing projects, new schemes which will form part of the overall Housing Programme include Vineyards Phase I, otherwise known as gas works, Tank Ramp Phase II, Castle Ramp/Road to the Lines, Rosia Dale Phase III and the conversion of the Glacis School voids into bedsitters. A start on further housing schemes will depend on the state of the Government's finances. A decision on budgetary contributions to the Improvement and Development Fund will be considered in the context of the 1983 Budget. The Government intends to fund projects in other areas of need notably housing repairs, rationalisation of schools, and the provision of Government office accommodation. Schemes which are currently earmarked for ODA funding either as priority or contingency might also have to be locally funded in whole or in part. The total overall commitment for the next programme should therefore be at least some £20 million over the next two years, subject to review on additional funding next year.

Mr Speaker, I can assure Honourable Members that the will

and the commitment to meet these expenditure targets in the Development Programme are there. We have been at pains to stress to ODA officials the need for urgent and sympathetic consideration of our project applications. It is to be hoped that their co-operation and support will be forthcoming in order to enable us to inject these badly-needed and overdue funds into our economy.

The House recessed at 5.25 pm.

The House resumed at 5.55 pm.

MR SPEAKER:

I would remind Members that we just had the statement by the Hon the Minister for Economic Development and Trade and you are free now to ask any questions you may wish.

HON P J ISOLA:

Mr Speaker, in a way the statement of the Minister is somewhat disappointing in the sense that it appears that here we are, some 22 months after the original development programme was submitted to London, there has been a hiatus, as the Minister has described, for a long period, this has caused great damage I feel to the impetus and the momentum of development in Gibraltar that has had its repercussions on the building industry and development, generally, in Gibraltar and on the economy and it seems that we are still in 1983, two whole years after the development programme was submitted, we are still at the stage when only some £2.3 million odd have actually been approved and this must be a cause for some considerable misgiving and some considerable alarm in the House and I think in Gibraltar. The actual schemes that are being put forward although of course necessary I suppose to the infrastructure of tourism and so forth in Gibraltar, even those do not appear to have been approved although sympathetic noises have been made and I think, I really do think, that unless some real progress is obtained or one gets real progress in obtaining approval for expenditure and getting the economy going again, unless some real assurances are obtained, there is, I feel, a need for the Gibraltar Government to seek high level talks at Ministerial level to get these projects going. I realise that in terms of our other problems of the Dockyard and even the effects of the partial opening of the frontier, development does not necessarily take top place but it is nevertheless very important and I think that the approval of schemes should not be allowed to be linked with decisions with regard to the Dockyard and its future, this should go full ahead and the Minister will have the full support of the Opposition if progress is not made and he seeks discussions at ministerial level in London. It is, of course, disappointing, Mr Speaker, that the British Government is no longer prepared to finance housing projects and non-

revenue producing projects but I suspected that this would be the case given the criteria currently in use by the present British Government. As far as we are concerned we support housing projects, we look to more housing being provided in Gibraltar but it is becoming increasingly clear to us that if we are to have development in Gibraltar and we are to be able to produce our own development project having regard to all the other aspects playing on the economy and on our position, there will be a great need to become very cost effective in development and to get our priorities right. I do not think I have anything further to say, Mr Speaker, at this stage on the statement made by the Minister but I think it is disappointing, very disappointing from our point of view and from Gibraltar's point of view that the Minister has been able to report really such little progress on funds. I agree entirely with what the Minister has said that if this is to be effective, if this is to have an effect on our economy, it is essential that the time-span in which the money is spent is as short as possible. If it stretches out more than two years then I take his point and I agree entirely, the effects on the economy will be lost, well, not completely lost but it will not be as effective as one would want it to be and what the economy really needs today is to get development going in a big way and we certainly will support the Government in trying to get ODA approval to their projects.

MR SPEAKER:

In order to make clear what we are doing now, as usual I have allowed the Hon and Learned Leader of the Opposition to make a general comment on the statement as he represents the majority of the Opposition. In the circumstances I will allow Mr Bossano to say some words on that score exclusively and then any Hon Member who may wish to ask questions either for the purposes of clarifying the statement or in furtherance of the questions that they gave notice of are free to do so. Mr Bossano, do you want to make a general comment?

HON J BOSSANO:

Yes, Mr Spaker, I welcome the opportunity to do so. I think the immediate reaction of my party to this statement is in fact that it produces concrete evidence of the way Gibraltar's economy is being undermined by the approach adopted by the British Government since the end of the 1978/81 development programme and the aid allocation and it appears to me, Mr Speaker, that the Government can only defend this very restrictive policy being applied by the British Government by reference to an even more restrictive policy of not giving them any money at all which apparently was something that was actually being mooted and which has been reflected in answers to previous questions in the House where I think it was indicated that until the matter was taken up at Ministerial level the officials in ODA were saying that

Gibraltar was too well off really to merit aid allocation. In that context it would appear to me that the attempts to get political support which is what has produced this, has been exhausted. I certainly think that if the Hon and Learned Leader of the Opposition thinks that the Government can get a better deal by seeking political support and if that view is shared by the Government then the opportunity should not be wasted but it is not a view that I share, I think that they will not get a response because I believe that the whole attitude is conditioned by a policy and a philosophy which can only lead to a downgrading of the standard of living of Gibraltar and that such a downgrading can only be compatible with its eventual integration into its hinterland which my party will oppose and I think it is only when Gibraltarians insist that the British Government cannot retain its power and give up its responsibilities that we will see a change in policy.

HON A J HAYNES:

Mr Speaker, can the Hon Minister outline the proposed phasing of the Port Development which he had in mind when he outlined the possible inclusion of the three projects, namely, generating plant, port and pedestrianisation? What does he mean by port, can he be more specific?

HON A J CANEPA:

Sir, quite apart from the causeway project, the Port scheme is phased into reclamation, paving and the facilities, facilities by way of a terminal for cruise passengers. The ODA apparently already have indicated they are not convinced of the need for facilities at this stage and we may have to consider whether that project should be considered under local funding if funds are available after we have carried out other perhaps more urgent priority works. It is reclamation, paving and facilities to follow the causeway project.

HON A J HAYNES:

Paving what?

HON A J CANEPA:

Paving generally around the Port which is badly required.

HON A J HAYNES:

But surely that is a fairly minor scheme?

HON A J CANEPA:

Not in the wake of reclamation of the Waterport Basin.

HON A J HAYNES:

Mr Speaker, as I understand it, and in fact it has been made abundantly clear by the ODA team to the Hon Minister and he has taken pains to point out to the House on a number of occasions that the ODA are prepared to fund those projects which they consider will be economically viable or will be productive for an economy. On what basis have they rejected or are they contemplating the rejection of the improved facilities for liners, I would have thought that is an obvious example of money which can be spent to raise money?

HON A J CANEPA:

I met the ODA officials who were here three weeks ago on two or three occasions but I was not involved myself in detailed discussions on individual projects. I think what I have said is that they indicated that they were not convinced on the need for facilities at this stage. There has not been any, shall I say, any outright rejection yet because in fact no project application has been submitted. What was being discussed three weeks ago, what was being attempted was to reach broad agreement on the guidelines and criteria so that we would then know which would be the individual projects which would have a better chance of acceptance after an early evaluation by ODA. The ODA officials will probably be returning in March and it will be after that stage when I think the Gibraltar Government will need to assess and take into account the point which has been made by the Hon the Leader of the Opposition and for which I am grateful, I am grateful of the Opposition's support on the matter, whether there is a need to follow it up at a political level depending on the progress that we make next month and once project applications individually are submitted if there are delays in replying or if there are further rejections I think that will be the stage when we have to consider a political appeal but on this specific one we do not have any detailed indications yet, it was just an indication that we received.

HON A J HAYNES:

Mr Speaker, on the housing information given by the Minister, I take it that the listed schemes will all be undertaken by Government on the money they have borrowed or their own money. Is there any timescale for these projects and does the Minister have details of general figures as to the number of units of housing that we are talking about, roughly?

HON A J CANEPA:

In the case of the first phase of Vineyards or Gas Works, Mr Speaker, we are talking of 70 units, we are hoping to

make a start in January 1984, and the time-scale for that would be, it is a bigish scheme, that would be slightly over two years, nearly 2½ years, beginning in January, 1984. Tank Ramp Phase II consists of eleven units and there we are hoping to make an earlier start in July, 1983. Castle Ramp/Road to the Lines, this is really a second phase, 22 units and we are hoping to make a start in June, 1983. Rosia Dale which has already started, the second phase of Rosia Dale, that involves 32 units and the Glacis voids, the conversion of these into bedsitters, involving 13 units, we can make a start on that once the extension to the Boys' school is completed and the school moves into the extension thereby making available these voids.

HON W T SCOTT:

Mr Speaker, in releasing or agreeing to or rejecting any of the projects does the ODA, in fact, take into account an existing pedestrianised opening or look forward, perhaps, to a full implementation of the Lisbon Agreement or in fact does this come into their reckoning at all?

HON A J CANEPA:

Yes, they do take this into account. For instance, in discussing the Waterport reclamation, whether there is a full opening or only a limited opening has a bearing on that particular project, it is a factor that they do take into account.

HON W T SCOTT:

In which case I would presume that tourist improvement schemes would fall within the infrastructure, am I not right in assuming that?

HON A J CANEPA:

I would like to think so, Mr Speaker, I would agree with the Hon Member that I myself would argue and if not to infrastructure revenue-earning projects which is the second plank of their criteria.

HON G T RESTANO:

Will the Minister give details on the further electricity generating plant?

HON A J CANEPA:

This is a third generator, Mr Speaker, probably 7.5 megawatts. It is due in 1986 but we may consider bringing it forward under the ambit of the development programme.

HON G T RESTANO:

At what cost, any idea?

HON A J CANEPA:

We wouldn't know until we go out to tender and I wouldn't like to put a figure on it.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Mr Speaker, I am sure the House will be pleased to learn that negotiations with Messrs Robertson's Research concerning the Government's and the Sand Quarry's claims against them have now been finalised.

Messrs Robertson's Research sent a team out to Gibraltar in early December last year and the Public Works and the Sand Quarry Company, with the assistance of Government's Legal Department, held discussions with them.

After two days of very hard bargaining a solution was reached which Government and the Sand Quarry Company considered to be satisfactory. The solution included the payment to the Gibraltar Quarry Company of £50,000 by Messrs Robertson's Research and the payment to the Gibraltar Government of £148,000 - these payments being made on the agreement that they would be full and final settlement of all outstanding claims by both the Quarry Company and the Government against Messrs Robertson's Research. There were some sums of money owing to Messrs Robertson's Research by both the Quarry Company and the Government, and these were agreed as legitimate amounts owing to Messrs Robertson's Research. It was further agreed that these sums would be deducted from the totals being paid to the Quarry Company and the Government by Messrs Robertson's Research.

The ODA was kept in the picture and they have agreed fully to the terms of the agreement between the Government, the Quarry Company and Messrs Robertson's Research. I am now in a position to inform the House that the net sum of £170,000 has been received by the Government on behalf of itself and the Quarry Company and the sum involved has been placed in the I & D Fund. In due course the amount owing to the Quarry Company, which is a net figure of £35,000, will come to the House for agreement for payment, and the balance of £135,000 will remain in the I & D Fund for meeting the cost of a system by which sand can be transferred from the upper catchment area to the lower ground level instead of the unsuccessful chute.

At the moment investigations are continuing as to the best possible replacement method and a further statement on this will be made in due course. It is hoped that the cost of such a system will be well within the £135,000 obtained, and it has been agreed with ODA that any balance remaining will be split between the Gibraltar Government and ODA on a pro rata basis, taking into account the amounts that the Gibraltar Government has put into the original scheme from its own resources and the amount that ODA has put into the scheme.

I am sure the House will agree with me that this is a very satisfactory solution to a situation which has been long drawn out, and will also agree that solving the matter by negotiation was infinitely better than the process of going to arbitration which would have been not only a long drawn out procedure but might not have resulted as favourably as the present solution.

HON P J ISOLA:

Mr Speaker, as a result of this settlement is the Minister saying that within the money that is actually being paid

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it will be possible to have an alternative method of bringing the sand down from where it was originally intended it should be brought with no additional costs?

HON M K FEATHERSTONE:

As I have said, Sir: "It is hoped that the cost of such a system will be well within the £135,000 obtained".

HON P J ISOLA:

I know that the Minister has said it is hoped but is that hope based on fact or is that speculative hope?

HON M K FEATHERSTONE:

It is based on some quotations we have already received but of course the final situation will be it will have to go out to tender and then we will know the exact figures.

HON W T SCOTT:

Can the Minister confirm that Robertson's Research are in no way even loosely connected with the final stage of bringing the sand down?

HON M K FEATHERSTONE:

Absolutely, Sir.

HON MAJOR R J PELIZA:

Could the Minister say how the sand is being obtained at the moment? Are the chutes being used or is it in fact being dug from underneath what appears to me to be like a retaining wall?

HON M K FEATHERSTONE:

The sand that is being produced at the moment is being produced from the talus area, conveyed to the quarry area and screened there.

HON A J HAYNES:

Is it now expected that the Sand Quarry Company will desist from taking sand from the bottom of the slope?

HON M K FEATHERSTONE:

It hasn't been taking sand from the bottom of the slope for the last year. If you go round there and you see sand being moved at the bottom, what is happening is that it is being brought from the talus area, dumped there and it is then put through the screening process.

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HON A J HAYNES:

Perhaps the Minister will allow us to visit the sand quarry area so that we can see for ourselves?

HON M K FEATHERSTONE:

Whenever you would like to come I will take you with pleasure.

HON MAJOR R J PELIZA:

Is the Minister happy that there is no risk of a landslide there now?

MR SPEAKER:

No, we are not going to expand on that.

HON W T SCOTT:

Mr Speaker, within the sum of £198,000, were the losses of the Sand Quarry Company sustained by it over the years that it has been in operation contained within that amount?

HON M K FEATHERSTONE:

When one goes to these negotiations one asks for everything that one can possibly think of but the sum obtained by the Sand Quarry Company of £50,000 is a very reasonable figure and I think it will if put against the losses for the two years practically wipe them out. It might even show a profit and therefore there was no need to change the directors.

HON W T SCOTT:

Is that in fact what the Hon Member opposite was telling me, I think it was in December of last year, when he was saying that we might be surprised because the Sand Quarry Company might indeed make a profit? Is it because of the injection of £50,000 or is it because it is running on a more viable basis now?

HON M K FEATHERSTONE:

No, Sir, obviously when the accounts are done this £50,000 will have to be worked out where it should go. Preferably it might have been put against the two previous years workings but the agreeable surprise is that on its own workings this year the Sand Quarry has made a very considerable profit.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that: "This House resolves that the Imports and Exports (Amendment of Schedule) Order, 1983 reducing the rates of duty on manufactured cigarettes to 274 pence per kilo and the additional duty per 1000 cigarettes to £6.16 be approved". Sir, as Hon Members will be aware whilst it is necessary to seek the prior approval of the House to increase customs duties, it is possible to reduce them, and come to the House at the next subsequent meeting with an Order resolving that that reduction be approved. Since mid-December last year there has been a series of meetings with representatives of the tobacco trade on the economic effects of the partial opening of the frontier. There has also been a meeting between the Chamber of Commerce and the Minister for Economic Development and Trade and at that meeting with the Minister the Chamber of Commerce stated that a general reduction in import duties would not be viable under present conditions. However, they were unanimous in suggesting a reduction of the duty paid on cigarettes since the competitive price in this commodity would restore levels of domestic purchase which have dropped dramatically by some 20% and the trade were of the view that this could go even further and the fall could be 30%. During January and early February, discussions were held with tobacco importers on the level of the proposed reduction in duty on cigarettes and in the trade cash margins. In those discussions, whilst the trade were prepared to accept a reduction in their cash margins, they said that they were unable to match in percentage terms the drop in duty which the Government was proposing. A reduction in sales had it reached 30% would have put at risk some £300,000 of revenue, basically we get about £500,000 a year from the duty on tobacco. Reducing the duty by stimulating demand and making cigarettes attractive could stimulate demand and hold reduction in sales to 20% or to a lower figure. A loss of sales of the order of 20% together with the reduction which is now before the House in import duty, could lead to a loss in revenue of £400,000 in a full year. If the sales were held at the level prior to the partial lifting of restrictions, that was 60 million cigarettes a year, the loss would have been of the order of £350,000. So, Sir, in fact, there were no good fiscal grounds for reducing the duty on cigarettes. However, the Government decided to reduce the duty by the amounts suggested by the trade in order to give encouragement generally by demonstrating that its policy was not motivated solely by revenue considerations, to restore levels of domestic purchases and also to test market elasticity to changes in price following the reduction in import duties. I must underline, Sir, that cigarettes, like drink, are a commodity where because the duty is specific and substantial a reduction in that duty can have a marked effect on the price of the commodity. This is unlike commodities where the duty is ad valorem, say, 10%, 12%, 15%, on CIF price and where a reduction in duty would not necessarily have a marked effect on the price. The reduction on this occasion in duty was 37.86% and it has been possible for the trade to reduce the price of a packet of 20 cigarettes from, I think it was going

to go up to 63p and it has dropped down to 50p in most cases, in some slightly below, in one or two cases of expensive brands slightly more and I think that it will be very interesting for us to see what the effect on the market is of this change in the customs duty. It will take some time for the results to work through. The immediate effect obviously will be that the persons who are holding back from drawing cigarettes from the bonded stores because of the anticipated change in the customs tariff have rushed in, bought and I am told by the Collector of Customs that over the past week there has been quite heavy withdrawals, this is to be expected. It does not necessarily mean that the increase will be carried through, it is a once for all, but we shall monitor very carefully the situation to see what the effect is over the next two to three months. Mr Speaker, Sir, I commend the motion to the House.

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

HON P J ISOLA:

Mr Speaker, there have been a number of questions in the House in relation to import duty and I think this motion provides an opportunity for the Opposition to put its views in a more coherent manner on the issue of reduction of import duties. Perhaps it is ironical, I suppose, that the only item on which the Government is going to reduce import duties is tobacco which will make the commodity which another department of Government is advising people not to smoke as being hazardous to health, that much cheaper for people to buy and will not only restore domestic demand but may in fact increase it and whether that is desirable or not I do not know. But certainly as far as we are concerned we have advocated a general reduction in import duties and we have made statements to this effect. There has been some response to that from the Government side, I detected in answers to questions to the effect that traders must be prepared to cut their margins of profit before the Government considers any other reductions. That seems to me to be a very narrow view to take of the situation Gibraltar is now faced with and we think that there is a need for a general reduction of import duties to stimulate consumer demand and to prepare Gibraltar for the competitiveness that is required if we are going to survive once the frontier opens. Mr Speaker, I believe that the trade in Gibraltar has to adapt itself to the changing circumstances as they exist in Gibraltar. With the frontier closed consumer demand in Gibraltar was limited to the number of people here. We have heard these arguments already, of course, of high wages, high costs, high municipal charges, high this and high that, and that in itself resulted in high prices and it is silly for people to talk of the difference in price between Gibraltar and La Linea because you are just not comparing like with like. There there is a low standard of living, there are low wages, a lot of

unemployment and so forth, the costs are much lower. But I think one has to take a broad view of the situation where the private sector is concerned in the new changed situation and I believe that the Government must take the lead and initiate a policy of competitiveness, initiate a policy that will help trade to adapt itself and try and increase consumer demand within Gibraltar. A lot of things have been said, Mr Speaker, about profits that have been made by traders and strangely enough the areas in which these allegations have been made are precisely the areas where a system of price control operates. Strangely enough an area in which the Consumer Department set up to protect the consumer has the largest say and it is in these areas that allegations have been made of profiteering and so forth. I only say that by way of comment. I don't like the approach, although I understand it, of the Financial and Development Secretary of saying there are no good fiscal grounds for doing this, that and the other. I can understand the Financial Secretary taking that view but we feel, Mr Speaker, in the situation that Gibraltar finds itself today, which is a dangerous one, and it is dangerous whether the frontier stays as it is at the moment or whether it opens fully, it is a dangerous one, we feel that there must be initiative, somebody has to get things going, someone has to take the initiative. Don't reduce import duties on tobacco because the tobacco merchants have been clever enough to badger the Government and go and seen them and then it is reduced, but reduce import duties as a matter of policy, as an act of faith, if you would like to call it that, in the competitiveness of trade in Gibraltar. Mr Speaker, in this present manner of opening of the frontier I can think of a number of items the duty on which, I would have thought could usefully be reduced, items that you can put in your pocket or put on or whatever. I am treading on dangerous ground, Mr Speaker, but let us be realistic, there are a number of items other than tobacco that you can put in your pocket and I think Government should take some risk in this matter on its revenues. I think the Government should take some lead in encouraging the trade to reduce prices by themselves reducing import duties. As my Honourable and Gallant Friend Major Peliza said, if the import duties are reduced the prices go down by that amount plus even a little more without traders cutting their margins of profit, but one would have thought that traders would follow a lead in the cut of import duties and prepare themselves for the day when they have to be more competitive. This is a new ball game we are now playing Mr Speaker, it is a new ball game; an open frontier, or a partial open frontier, it is a fact, I think it is there to stay, the probability is that the frontier will open fully, it appears from the number of people who go across the border, it appears it is a popular situation with a great number of people so popular that even the directors of the Chamber of Commerce couldn't take the traumatic step forward suggested to them by one of their members that they should refrain from going to Spain until there is a full opening of the

frontier. It is a very popular thing and we have to live with that. This may, or may not be good for Gibraltar. At the moment it appears to be taking £150,000 of good hard earned money in Gibraltar out of Gibraltar. That is the position, one has one's own personal thoughts about that situation but we have to meet it. We have to play the new ball game and, Mr Speaker, the economy that has been geared to an island economy has now got to cease to be that or not has got to, is ceasing to be that and therefore I think a lead must come from the Government, there must be, Mr Speaker, a reduction of import duties. I have already heard people say, I hope it is not true, that for example it is cheaper to buy a car in Spain now than in Gibraltar so why not buy your car in Spain and leave it across the way. Some cars are paying 45% import duty, all geared at a time when you had a captive market within Gibraltar. And now the Government has to make the economy competitive and that requires action from them, not just in the range of import duties but in other areas. Cost effectiveness has to be, in our view, the watchword of the Government. But on import duties, Mr Speaker, we think the Government is going too slow with just a bit on tobacco. I know a large amount is involved of revenue, £300,000 but when you look at the total revenue in the Estimates and you look at the Estimated Consolidated Fund Balance of the 31st of March, 1983, which is expected to stand - I don't know whether that is still the position - but which is expected to stand at over £10m, the Government can afford or should afford to use some of that reserve, not all, but some of that reserve, to try and create initiative, to try and instill the competitive spirit back into the Gibraltar economy, back into the Gibraltar trade. I think the fairest way of doing it, my own view but others may not agree with me, is by a cut in import duties across the board so that trade generally is told: "We are supporting you, get more competitive." And if the Government feels they cannot do it across the board then do it on a whole lot of other items, a lot of them come to my mind which are small, a lot of items which can be sold that people would buy if they were made more competitive. I know that despite that traders, bars, restaurants still have to contend with the high municipal charges, and they are high municipal charges, Mr Speaker, have no doubt about it, they are very, very high and I would like to know why they are but they are very high. They have to contend with high municipal charges, it is said high rents, in some cases very, very high, in others not so high, high rents high municipal charges and parity salaries about which no one complains, well not no one complains, I think people do but I think that is kept quiet. Those are the facts of life and if trade is going to be more competitive then I think there has to be reduction in prices and the lead has to come from the Government, the Government has to make the act of faith. The Government has to tell traders: "We are prepared to cut import duties, are you prepared to cut prices?" But don't wait until a particular pressure

group comes on the Government and asks them to drop them on a particular item. Rather like, Mr Speaker, at the frontier that now you can only bring one loaf of bread because it affected a particular sector of industry, a particular part of Gibraltar, it affected them and they seem to have powerful voices in high places, I should say, this particular sector. I don't know whether this is due to my Honourable Friend Mr Bossano's influence in the area or whether it is due to others in that industry now who have the ears of the right people. I don't know why it was but bread was stopped but what about other items Mr Speaker? Restrictions have been put on the frontier, in our view too few, but it is disjointed. We would like to see a policy from the Government on import duties. One of the highest cost factors is the import duties. That is within the Government's power to do something about and we think that an initiative should come from the Government in that respect and as my Friend said and I hope the Government is going to consider it, I think the Honourable and Gallant Major made a very sensible suggestion in the question that he asked and that was that import duty should be charged on the FOB price of goods and not on the landed cost which is the present position and which puts quite a lot on to the price of the goods in question. I think that is a good suggestion and I think these are the sort of suggestions that should be applied and should be considered at great speed because, Mr Speaker, the economy is suffering, the economy is continuing to suffer seriously and our own weakness, the weakness in Gibraltar, is going to be exposed sooner than is good for us. Therefore we urge the Government that they should take the initiative and take steps to recreate, to enkindle a greater spirit of enterprise and competitiveness in the private sector of Gibraltar and not indulge in a slanging match which is really what has been happening recently, if I may say so. I know that at the recent Chamber of Commerce meeting hard things were said and I know a lot of people didn't like it. I have been surprised, quite frankly, when I read this morning a response from the silent service, the Civil Service, which is meant to take everything, quietly with great aplomb, with great patience and should be utterly unmoved. I notice, however, that they were moved into action by what happened in the Chamber of Commerce and have attacked rather strongly the trade in Gibraltar and the private sector in Gibraltar, Mr Speaker, and that is nothing more and nothing less than the warnings that we have been giving from this side of the House before the frontier opened when we have been seeing statistics, that we are creating in Gibraltar two nations, the private sector and the public sector, two nations have been created in Gibraltar where the disparity in earnings is becoming clearer and clearer. That was a digression, Mr Speaker, but there is a need to get the private sector going, to help it is not the right word because it is the whole of Gibraltar we want to help, we want to instil greater competition, we want to get prices down, and have no doubt about it, the Government is in a

position to do something about that, to do something constructive and to take the initiative in it and not just wait to be pushed and pushed and pushed to one item or another item. Of course we will support this motion because it involves a reduction although possibly a reduction in the wrong thing, as I have said. The Minister for Health must have fought tooth and nail against the reduction of import duties in tobacco, I am sure there was nearly a split in the Government as the result of the reduction on tobacco because of the effect it was going to have on the health of the population here and elsewhere but I think that the Government should take the initiative, Mr Speaker, and do something about getting the private sector more competitive and I would accordingly ask the Financial & Development Secretary to bring another resolution like this one, having done it in the meantime between now and the next meeting of the House, in which he either reduces duties along the line or streamlines them to a more simple way than it is at the moment or brings down other items that are dutiable goods on which the trade itself might well benefit even from the present manner of opening of the frontier by a reduction of import duties. Thank you Mr Speaker.

HON J BOSSANO:

We seem, in fact, Mr Speaker, to be in the middle of a debate on the policy that one should adopt to deal with the open frontier on the terms on which it is open, if one goes by the contribution of the Honourable and Learned Member.

MR SPEAKER

To the extent that the reduction in duty has been motivated by that particular factor I think one has to be slightly liberal on this.

HON J BOSSANO:

Well, one doesn't know why it has been motivated. If one reads between the lines of what the Honourable Financial and Development Secretary had to say on the subject, it would appear to me to be little more than a gesture towards the trading community to demonstrate that the Government is not totally unsympathetic to their demands. If it is more than that no doubt somebody else will say so, but that is all that one could gather from what the Financial and Development Secretary says. I can't agree with the approach of the Honourable Member because I don't think he spells out as a matter of policy, I accept that it is not his responsibility, really, because the Leader of the Opposition, let us face it, is here more I would say, as I am, to react to the policy of the Government that has got the responsibility of governing rather than to tell them how to govern from this side of the House. But in

fact it seems to me that to simply say that the reduction of import duty is going to create a competitive element is enunciating an economic doctrine that I have never come across before unless one goes on to spell how this competitive element is produced by a reduction in duty by demonstrating that the differential in prices between here and Spain can be accounted for because of the differences in duties that we have and they have. I think when we had the motion in the last House dealing with the frontier opening, I spelt out at one stage what I saw was the impact affecting three different spheres of our society, the consumer, the producer and the Government and I said the consumer would benefit, the producer will lose because he would lose his customers, and the Government may be affected or may not be affected depending on whether the duty paid by the consumer on the goods he brings from the new source substitute for the duties he was paying before. It seems to me that the broad analysis is in fact what is happening. The Government is taking the step of reducing the price of cigarettes and they are not even sure that the result of that is going to be to bring back lost sales, they are not even sure whether it is going to stop the decline in sales. I can tell the House that the people that I know who are buying their cigarettes across the road are paying 25p a packet from what they have told me and that therefore a 50p packet of cigarettes is not going to deter any of the people who buy 25p packets of cigarettes. I don't know whether the total elimination of duty would bring the price down to 25p but I think we have got to recognise one thing, that the nature of the threat that we face from competition is based on the fact that Spain today produces a whole range of goods whereas what we are selling in Gibraltar is all imported and it is with goods domestically produced that we are in a totally different situation and that the full opening of the frontier cannot be guaranteed to change that because presumably if somebody buys imported goods in Gibraltar which would not be Spanish produced goods but Third Country goods, the Spanish customs could legitimately defend that in order to protect Spanish fiscal policy, goods originating in Japan should not be introduced via Gibraltar and avoid paying Spanish duty. And if that line is taken I do not see how anybody can be competitive in a situation of selling something cheaper in Gibraltar which were bought after having paid duty in Gibraltar will then be subject to Spanish duty whereas if it is bought in Japan would only pay duty once. I think that is the seriousness of the problem that we face and I think it is a mistake to lead people to think that it can be overcome by something as straightforward as a cut in duty. Obviously, although I do not see the sense or the logic of the move, I am going to support it because I don't see any member of the House doing anything other than supporting anything that puts more money in people's pockets and that is what we are saying we are going to do, we are going to allow the consumer to keep £400,000 of his money so that he can decide whether he spends it in Gibraltar or

in La Linea. If, in fact, we want to get the Government to change policy on this matter, then can I put it to the Honourable and Learned Leader of the Opposition that we appear to be in a majority on this occasion and we can actually defeat the reduction in duty in this motion.

HON A J CANEPA:

Mr Speaker, it is not the first time that recently in the House one has heard the phrase of "two nations". I hope that it should not be applied to, it does not have to be applied to any disparity in payment of income tax or if it has to be that it is only to the extent that earnings are higher in the public sector than in the private and that is why people in the public sector pay more income tax than in the private and that there is no other reason for it. I don't know what really the Honourable the Leader of the Opposition expects the Gibraltar Government Clerical Association to do when year after year civil servants have been at the receiving end of the annual bleat from the Chamber of Commerce. What has happened on this occasion is, of course, that not only has the Chamber gone too far but their loss of credibility, the loss of credibility of the Chamber, generally among the public is such that that added to the fact that they had gone too far, it was inevitable that civil servants should hit back in the way in which they have done. The Honourable the Leader of the Opposition very glibly asked that he would like to know why municipal charges are high. I would imagine that I have heard the reasons spelt out in this House ad nauseam. In so far as electricity is concerned the price of oil in the last six or seven years has gone up enormously, we have a small undertaking which therefore makes it more expensive to run, we wish to be independent in this basic undertaking and not plug in to the Spanish national grid, it is the price that we are paying for our independence therefore. Water: What does he expect, three very dry winters, distillation and the high price, oil again, importation thankfully of water from Morocco, a tax increase last April which put the price up of the imported water by 40%, well, how could it be cheap? I think whisky is cheaper than water in Gibraltar. Rents: Is he in any doubt that private sector rents are high? I would have imagined, having regard to the controversy last year at the time when the border was due to open and the representations which no doubt have been made to the Select Committee, I would have thought that there was no room for any doubt as to the fact that private sector rents are high and that many, or some, perhaps I should say not many, some of the more unscrupulous landlords saw the opportunity to make a killing last April and June and that has set the pace for rents in the private sector. The Government too has been at the receiving end in this respect. I don't know, Mr Speaker, about the Government taking the lead, I think the Government can take the lead as we have done now and take an initiative where duty is clearly a very large amount and a very large proportion of the price structure of the commodity but I cannot see that

the same argument applies in the present circumstances of a partial opening where duty is only 10% or 15% and profit margins in many cases are surely far higher than that. I would have far more respect for people who came to the Government and said: "Look, we are prepared to have a cut in our profit margins. We are prepared to reduce our profit margins by a third if the Government will reduce the duty by so much." But no, all that has happened other than in the case of cigarettes, is that there have been demands in some quarters, not in the Chamber as a whole, but in some quarters, for the Government to take an initiative to lower import duties. Why, so that prices could fall as dramatically as they have done in the case of fruit and vegetables? Is that what is going to happen so that the whole blame could be put on the Government? Ah, the Government has lowered the duty therefore we are able to lower our prices. Giving the impression that what the Government had done was the chief element in such a reduction. I am not sure, Mr Speaker, that the Government should be a party to that. The Honourable the Leader of the Opposition made some reference under price control, I think he was referring to fruit and vegetables. Yes, they have been the subject of price control but price control based on the invoices that were presented to the Consumer Protection Officer and I have my doubts about the validity of those invoices because I cannot believe that an invoice from suppliers in Morocco which shows a certain price for fruit and vegetables can be correct, can reflect the true picture, when we know that the price of the same fruit and vegetables in the Tangier market are half or a third. Somebody was being taken for a ride, the Government and the consumer have been taken for a ride and I don't mind saying so publicly.

HON P J ISOLA:

Can the Minister say what the Consumer Protection Department was doing? A department that was surely set up precisely to prevent that.

HON A J CANEPA:

The consumer protection was maintaining the price of fruit and vegetables at the same time for about five years - why? Because we knew that the price on the invoices did not reflect the true position. That is what we were doing, resisting any further increases. But what can you do about what goes on in the suppliers in another part of the world outside Gibraltar, what control do we have? And when one hears that there are firms, so-called reputable firms in Western Europe who are prepared to put a certain figure on an invoice then what do you expect from people in Morocco? That is the truth of the matter and I do not mind saying so because I can speak under the protection and the privilege which the House affords me. I think, Mr Speaker, that in a situation where there is a full opening of the frontier and reciprocity then we have

another matter altogether, I think the Government there can take an initiative and I don't mind telling the House that last April or just before last April and June, the Government was going to take action to reduce import duties on a wide range of items, not across the board and I will explain why in a moment we cannot do that across the board. On a very wide range of items we were going to have a very general decrease but what we are doing now with cigarettes is to test the market. If the fears and misgivings of the Financial and Development Secretary are wrong and if the wider political aspects which we have taken into consideration for making this move prove to be correct, yes, you could perhaps consider similar action on small items, pens, watches, lighters that sort of thing, but cars, no one is going to buy a car in Gibraltar and take it across. I don't think people can take television sets across, or videos, but it is an area in which there might be room for movement in the future, I don't know. But a general decrease across the board which is what the Honourable the Leader of the Opposition has asked for again here, which figures prominently in a statement which the Opposition made, I think it was on New Year's Day, that simply isn't on and to pretend that the Government can draw on reserves is not to understand the full position as to what the Government reserves are and I can explain that very quickly. We have got about £10m of reserves in the Consolidated Fund, £4m are owed to the Government so that is not available, £2m are earmarked as I said earlier today for the Rosia Dale and the extension of the Boys Comprehensive School project so we fall back on about £4m and I would submit, Mr Speaker, that in a position where the economic outlook at best is bleak, regardless of what the Chamber say that I have said, I say today here that it is bleak because I have said it publicly elsewhere, when we can anticipate further unemployment, higher unemployment in Gibraltar so that people once they have exhausted their 13 weeks of unemployment benefit will have to fall back on supplementary benefits which is a charge on recurrent expenditure, I honestly don't see how the Government can take a gamble on a general decrease in import duties under present circumstances. You can be adventurous from the Opposition benches because ultimately you know that it is not the Opposition that is going to have to implement the measure, it is the Government that will have to do so and it will be the Government that will be answerable. It is just not within the realm of practical politics and therefore the message that has got to get out is that we have got to press the British Government very hard to ensure that there is a full opening of the border with full reciprocity, with full movement of goods, because if that doesn't come off then rather more drastic steps may be necessary which are going to be extremely unpopular because I agree with the Honourable the Leader of the Opposition that people going over in their thousands they now have wider areas in which to move, the kind of leisure activities which people have been deprived of for many years and to deprive people of that in any way, not to allow people to bring back a

modicum of goods, is extremely unpopular. Already I think the Spanish Government have to take some steps to control the export of larger articles from Spain into Gibraltar, notably fridges which some people were carting over, settees and so forth. That was stopped and I won't say why, that was stopped and more drastic steps may have to be contemplated. I would hope that it wouldn't come to that and I would hope that with all the misgivings that the Honourable Mr Bossano may have about a full opening of the frontier in the context of the Lisbon Agreement, you know there would be an element of reciprocity because our economy may not be able to gear itself for 18 months or for two years to take advantage of the full opening of the border but the fact is that our economy under the present circumstances could be very slowly bled and that I think we cannot afford to contemplate. But this is as far, I think, the Government can reasonably contemplate in the present circumstances. If there is an early opening of the border, no doubt in the context of the budget and so on the Government will be giving very serious consideration to moving over a wider field. For the moment there are fears, I have had representations from motor traders about the need for Government to lower duty on motor cars and spares and so on, people are afraid that cars are going to be bought in Spain. At the moment I think that particular field is under control, it is only a handful, a few, that are doing this but with a full frontier opening that is another matter. People would then be able to go, perhaps buy a car in Spain and bring it into Gibraltar and we will have to look at the matter again. Let me say one thing Mr Speaker, the Government is aware of the problem areas. We are in constant touch, we do know what is going on but to pretend that corrective action can be taken over a wide range of economic activity in Gibraltar is I would suggest, under the present circumstances, living in a fool's paradise.

HON MAJOR R J PELIZA

Mr Speaker, there were two things that I was very sorry to hear the Minister, who is after all responsible for trade, say. One was the lack of respect he seems to have for the traders for whom he is responsible. He is quoting in most general terms as if every trader in Gibraltar was you might say falsifying the invoices given by their suppliers.

HON A J CANEPA:

I am becoming increasingly loath to get up and speak before the Honourable Major Feliza because he then twists my words but because the Chief Minister is not here and because I am the Minister for Trade, I thought that I should get up before him otherwise I was going to allow him to speak first. That I should get up before him and make a response from the Government side to what the Honourable the Leader of the Opposition had said and to what the Honourable Mr

Bossano had said otherwise all that we would have had from the Government benches would have been a prepared introductory speech of the Honourable the Financial and Development Secretary. Reading Hansard the other day I noticed that on the 8th December he did precisely that, he misconstrued remarks that I made about the media and he is doing precisely the same thing today, I was talking of invoices in a particular context, fruit and vegetables.

MR SPEAKER:

What the Minister did say was that if reputable firms outside Gibraltar were prepared to give higher invoices one could not be surprised that it was being done in Morocco.

HON MAJOR R J PELIZA:

Mr Speaker, what does it mean "if reputable firms are prepared to do this what do you expect from Morocco."

MR SPEAKER:

Will you please sit down. You have again misunderstood what has been said. What the Honourable Minister has referred to are reputable firms outside Gibraltar, and you are now interpreting that to mean that he has spoken in a derogatory manner about businessmen in Gibraltar. I think I have cleared the matter.

HON MAJOR R J PELIZA:

I am glad you have made the point because I am absolutely right. Mr Speaker, you have confirmed what I gather from what he has said.

MR SPEAKER:

With due respect, I have not confirmed what you have said, whatever else you may think.

HON MAJOR R J PELIZA:

Well let me explain, Mr Speaker, that the only way of interpreting that is that there are reputable firms who are supplying goods to Gibraltar. You say no, well, it means a reputable firm in Western Europe who supply that who to? What is he talking about, to Ireland, to Hong Kong, we are talking about Gibraltar.

MR SPEAKER:

Order, order. With due respect to the Honourable and Gallant Major Peliza that, in my opinion and I must express it, does not warrant you to say that what the Honourable Minister has said is that reputable firms in Gibraltar are

lending themselves to do that. What the Minister has said is that irrespective of what happens in Gibraltar if reputable firms in Western Europe do it, you must not blame Gibraltar because they do so.

HON MAJOR R J PELIZA:

So what he was saying is that reputable firms here do not do it. Well, it is a very funny way of saying it.

HON A J CANEPA:

It is not what I am saying, it is what I said. Now if he wants to take that one step further and put whatever interpretation he wants to then that is another matter that the Honourable Member has to answer for but I can speak and I can repeat what I said and Hansard will prove that, I am very careful with my words, Mr Speaker.

HON MAJOR R J PELIZA:

Anyway, that is the interpretation I got and that is the impression he certainly gave me. And everything he said about the Chamber of Commerce before that, Mr Speaker, I do not think that there is any love lost between the Minister and trade in Gibraltar because however wrong the Chamber of Commerce may have been in certain of its statements, I certainly as Minister for Trade would have been certainly in this very serious situation of Gibraltar where I think we shall have to depend considerably on the private sector in due course particularly if there is two way traffic with the frontier, I would have thought I would not have antagonised them. I am not going to give way, Mr Speaker, I am entitled to express a view and that is my view. I thought he was antagonising the Chamber of Commerce in the way that he spoke about it earlier on. I will not give way, I am sorry. You had your say and I listened now whether you like or not what I am saying I am afraid that you can either listen or shut your ears but I am entitled to say what I am saying. This is my view and this is the way that I interpreted the way that he spoke. That is one side, Mr Speaker. The other side for which I am also very sorry, is the lack of initiative and boldness on the part of the Government at this stage where he says that the situation is very bleak indeed. I must say that was not the impression given in the communique that was issued by the Government, I forget the date now, in which it said that there was no reason to be alarmed about the situation or words to that effect. I haven't got the communique here but that is the general impression given by the communique, that everything was going fine. Well, that's not, Mr Speaker, what he is saying here today and in fact that is the impression that was given to the Chamber of Commerce because that is what they said there at that meeting. I don't think that the Chamber of Commerce was in any way trying to get at the Minister.

MR SPEAKER:

Let us not digress from the question before the House.

HON MAJOR R J PELIZA:

Mr Speaker, I am not going to press the point. Mr Speaker, we have it seems £4m in reserve and we have a drain of about £7.5m a year. If £150,000 are going over a week that is about £7.5m a year. £7.5m, Mr Speaker, when you apply the multiplier to that is a hell of a lot more. That is the money, Mr Speaker, some of it is spent in buying purchases and some of it is finding its way back to Gibraltar, either through the frontier or now that the frontier is becoming apparently a little stricter, on the other side of the frontier, the Police Post is becoming a little stricter themselves, is coming over by sea but it is finding its way here and not only part of that is finding its way here in the form of goods, but they are also being serviced here, they supply the goods and they service the goods here in Gibraltar. I don't know whether the people who service it count as employees in Gibraltar, I don't think they do, but I suppose there is no way at this stage of controlling that. I would suggest to the Government that they should look into that very quickly because it is not doing any good either to business or to employment in Gibraltar. I believe it is very difficult to stop it. And therefore that is another important thing. Out of the £7.5m that are going out there is no doubt that a lot of that money is money that would have been spent in Gibraltar. The other might be savings and that perhaps is not so seriously affecting our economy as it would have been spent in any case outside Gibraltar. But part of it would have been spent in Gibraltar and that undoubtedly will cause loss of trade and services in Gibraltar which in turn will cause unemployment and before it causes unemployment it might even cause a lowering in the salaries and wages of the people in the private sector. I think this is what my honourable friend here who said about the two nations. If, for instance, the civil service will be able to survive its present size and income, it is sure for certain, I have no doubt in my mind and I think the Minister himself knows very well, the private sector will not be able to survive in its present size and income. I have no doubts that that will be so, and already I understand firms are beginning to shed labour. And this will continue very quickly and very seriously for the whole economy because this will have a secondary effect on the economy and eventually will affect even the Government itself as I think the Minister very rightly said, it will affect its funds very quickly. Mr Speaker, the situation in my view has come to stay. I do not see the Spaniards suddenly turning round and saying: "Poor Gibraltarians, let us help them, let us see if we can ensure that they, too, get some money going back.

28.

MR SPEAKER:

With due respect, we are debating the question of reduction of import duties to help the economy. We must not expand the debate to the whole economic situation of Gibraltar. Insofar as it affects, of course, the reduction of import duties, fair enough.

HON MAJOR R J PELIZA:

I was trying to make the case, Mr Speaker, that in my view the situation has come to stay and that even if the frontier opens fully as they say, it will be part of the policy of the Spanish Government to try and continue the situation where more money leaves Gibraltar than comes into Gibraltar and there are many ways in which they can do it and, Mr Speaker, I don't want to exceed the latitude that you have so kindly allowed in this debate. So, Mr Speaker, the situation is here to stay and I think the Government knows that the situation has come here to stay. Isn't it time now to really take action, drastic action, as they will have to take sooner or later? Isn't it better to take it sooner, at least save some of that £4m reserve because if no action is taken it will completely go. I would have thought to try - not gamble - the word is not gamble, to try and make use of that reserve to see if it is possible to contain as much money as possible within Gibraltar of the £7.5m that go away. If we bring down duty as my Honourable Friend has suggested, immediately the prices will come down. The market force will bring the margins of the local trader willy nilly. He hasn't got to make a promise that he is going to do it, he will be forced to do it by the market forces themselves but it will help if the duty is brought down and it will encourage the locals to spend the money here, to buy things here when he sees that he has more or less got what he considers now to be a bargain rather than go across the border and spend money on other items. Perhaps if he had the choice between what he can see on the other side for a certain price and he can see here for a more reasonable price, he would rather go for the local rather than to the other side. And therefore, Mr Speaker, this is what I think my friend meant by that. Of course, there are I think he very rightly said, small items which individual visitors coming to Gibraltar will take with them. One that comes to mind immediately is jewellery. Mr Speaker, would it not be a good idea to bring down the duty on jewellery? I cannot see any gamble on that at all but I can see many people particularly abroad who perhaps want to change currency for gold because it is a more stable thing to have these days, really making the best of that and this, in my view, could bring a lot of money into Gibraltar. I have mentioned that but there are others which I am sure the Government might be in a position to know better than I do. I think if we move fast on that we might gain something. The other thing that my friend referred to about the two nations is very important. I can see how readily the

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Government says you must bring down the margins in the private sector but have they thought of they themselves bringing down the margins? This is very important, too, because if they bring the margins down they will help the private sector to bring the margins down too. And if there is a special effort in a crisis as we are going through now, employees in every quarter in Gibraltar understand the difficulties and will be prepared to make that special effort. I think the Government may find that by instilling enthusiasm into them, by giving them an objective, it might be possible to increase productivity and therefore in turn reduce the cost of some of the Government services and in turn that will bring the prices down and, hopefully, it will make Gibraltar more competitive all round, Mr Speaker, this is what I think my Friend meant. To do that we need a lot of leadership from the Government and that leadership has not been forthcoming. I think the first thing the Government must do is to tell the people of Gibraltar of the consequences to trade in Gibraltar, Mr Speaker. The other one, Mr Speaker, having done that, is to themselves show an example by, as I said before, making a great effort to reduce the costs of their services.

HON M K FEATHERSTONE:

Sir, before I start on the general remarks on the debate I would like to clear up one point. The Honourable Mr Canepa, since he took over the responsibility for Trade, has been at great pains to build up and has built up a very cordial relationship with the Chamber of Commerce over the last two years or so and it is rather a pity that, firstly, the President of the Chamber of Commerce seemed to wish to disrupt this cordial relationship in his remarks just recently.

MR SPEAKER:

I must call you to order. We are not going to have anything more on that subject.

HON M K FEATHERSTONE:

Well, it was said on that side and I felt it has to be cleared up. The Honourable Major Peliza did not retract his remarks so I felt it has to be cleared quite properly. He didn't give way. Now, Sir, on the whole question of the reduction of import duties it is basically not the time today to decide to do this. We have had three runs-up to the removal of the Lisbon Agreement and three complete failures. We are now promised once again removal of the Lisbon Agreement in the Spring. Well, the Spring might be late March, it might be early June. That is, if it comes off. We hope with this new Government in Spain that they will keep their word but if it were to be the later period in the Spring, what good would a great reduction in duties do today? Supposing we reduce duties by 33% on the lower mark-up of traders, and by the lower mark-up I am putting a 50% mark-up over duty paid cost and many traders work on a higher mark-up than that, it would only mean a 4.2% reduction

in the actual price to the consumer assuming the trader made no change in his mark-up. To make a good impact the trader would have to cut down 15% - 20%. Wouldn't the first thing be for the traders to come to the Ministers and say: "Look, we feel there is a crisis, we feel that the situation can be ameliorated by a reduction of duty" and yet one thing must be kept in mind, they themselves have said in their memoire of their own, that they recognise that a reduction in duties in general would not be viable under the present Spanish restrictions so they themselves are saying it is not the time at the moment to make this reduction across the board. But if they were to come to the Minister and say: "On the assumption that we have an open Lisbon Agreement, we are willing to make a reduction in our profit margins of X if you will reduce your duties to so and so", then Government has something to grapple with, something to go on. At the moment what would happen if Government reduced duties? Well, it would mean, basically, that items might be a little cheaper to the people in Gibraltar, not to the Spaniard coming in because he finds all the goods here expensive anyway. Unless there are vast reductions he is still going to be not so interested. There are certain items which today come in free of duty, food, chocolates, medical supplies. The Spaniard doesn't buy them, partly because he cannot take them back and partly because he finds that paying 22p for a bar of chocolate is very expensive. Of course, what happens with all the people who are spending the £175,000 a week over in Spain? Well, I do remember there was a little period in which there was a movement in Gibraltar that they didn't want the frontier open, they were going to build a brick wall across but when the frontier opened they found bricks were cheaper on the other side so they went over there to buy them. They are not spending their £175,000 on consumer goods to any great extent, that has been shown by the amount of duty coming in, we have only collected £11,000 worth of duty. If the duty is charged at 15% or 12% that only represents £110,000 worth of goods. The money is being spent on leisure and you are not going to change that pattern come what may. People will always, as they used to in the past, think of going somewhere else to have a meal, partly because there is a little excitement in going somewhere out of your own city, partly because it is also relatively cheaper. We have had the story which is always thrown across, that municipal charges are high. Well, there was an offer made to the Hotel Association I believe in which they were asked: "How much would you reduce your fees if all municipal charges were reduced?" and they said they wouldn't reduce at all, they would just increase their profitability. I wonder if that is the attitude that the trade might take? But what about these high municipal charges? I think my colleague has dealt with electricity and water but rates have not been altered, to my knowledge, for 10-15 years. Of course rates have gone up because the valuation has gone up.

HON P J ISOLA:

If the Honourable Member will give way. There are two ways of putting rates up, one is by putting the poundage up which people shout about, and the other one is by getting the Valuation Officer to revalue everything up and he does that regularly and to a very sharp extent as people find to their cost.

HON M K FEATHERSTONE:

The poundage has not altered to my knowledge for 12 to 15 years. The valuation has increased because people are paying higher rents, so much so, that 5 years ago there used to be an indecent struggle if a shop became vacant to pay almost any rent to obtain it knowing, even at the high and inflated rent they would have to pay, the rates on that shop would go up very considerably. So if there has been a high increase in the municipal charge of rates, put the blame on the landlord not on the Government.

HON P J ISOLA:

Yes, but the Government is the biggest landlord and it revalues all its properties just as much as anybody else.

HON M K FEATHERSTONE:

I don't think the Government is very much of a landlord as trading establishments. One other little point that might be interesting. The quality of fruit and vegetables which are today imported still, I understand, leaves a certain amount to be desired compared with fruit and vegetables obtainable in Spain. Therefore you are going to obviously have the system under which the discerning purchaser is going to go to the cheaper market. Now, Sir, as has been said, certain of the items introduced from Spain especially what was apparently being introduced before, refrigerators etc do create a measure of concern to Government not basically because they are items coming from another area, because refrigerators are imported irrespective of where they come from, but where Government has a certain measure of worry is do these electrical domestic articles conform with the basic EEC standards, do they conform with the necessary provision of a 240 volts supply and can they basically create a certain measure of danger to the consumer because they are rated at a lower voltage, I think they are rated at 220 volts and they are being used almost to the limit of their capacity and this does give Government a certain measure of worry and it may be necessary at some time to make some restrictions on their importation. However, Sir, as I have said before and as has been said very clearly, now is not the time to reduce duties. The time would be when the Lisbon Agreement comes into full operation, Government can move very quickly they can reduce duties without coming to this House, they

can monitor the situation almost from day to day, they can cut duties on those articles which are obviously in demand, keep duties on the others. The Consolidated Fund can, of course, bear some losses on this but one thing that is obviously an idea that is worthy of comment, should one run down one's Consolidated Fund in the hope of protecting one's trade or should one run down one's Consolidated Fund by providing some of the social measures such as housing that are so urgently needed? Let us see how the situation develops with the reduction of cigarettes, let us see if it does prove to be a loss leader, let us see if the Lisbon Agreement comes into proper operation and I am sure the House can take it quite definitely that Government will move very rapidly and very effectively when the time comes.

MR SPEAKER:

Does the Honourable Financial and Development Secretary wish to reply?

HON FINANCIAL & DEVELOPMENT SECRETARY

Thank you Mr Speaker, I just want to make two points. I am quite sure that the Honourable and Learned Leader of the Opposition didn't mean to, as it were, knock the tobacco trade or the bread trade in saying that it was they who came along and bashed our ears and we therefore gave way. This is not the case at all. It was the Chamber of Commerce who came and made a very strong case for cigarettes in subsequent discussions that we negotiated what the price change would be but the move came from the Chamber of Commerce and not solely from the tobacco barons. On the bread side, here we are dealing with a staple industry. If it were to run down seriously and then supplies were to be cut off, Gibraltar could find itself in great difficulties. That is the reason why the Government moved on that front. With those two points, Sir, I commend the motion to the House.

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

The House recessed at 7.30 pm.

WEDNESDAY THE 23RD FEBRUARY, 1985

The House resumed at 10.50 am.

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move the motion standing in my name which reads as follows: "That this House, whilst still opposed to the British Government's decision to close the Naval Dockyard - (1) considers that it is in the interest of the Western Alliance of the free world generally, and of

Gibraltar itself, that the British Naval Base at Gibraltar should be maintained; (2) endorses the view of the Gibraltar Government that in the consideration of the proposals for a commercially-operated ship-repair yard, full regard should be had to the essential requirements of the Naval Base; and (3) trusts that, conversely, the Ministry of Defence and indeed the British Government as a whole, will have full regard - (a) in the consideration of such proposals to the needs of such a yard should it eventually be agreed by all concerned that a commercial operation is feasible and viable, and (b) to such other needs as may be put forward to the Ministry by the Gibraltar Government in its efforts to diversify and strengthen the economy generally in order to offset the effects of the Dockyard closure". Mr Speaker, this arises out of a journalistic battle, so to speak, between the Gibraltar Socialist Labour Party, so ably and exclusively represented in this House, and the Government. On the 20th of January of this year, the Gibraltar Socialist Labour Party issued a Press Release on some issues relating to the Dockyard and the Naval Base. On the following day I issued a statement on my own behalf and on behalf of my ministerial colleagues, commenting on this issue. On the 24th of January, the GSLP issues another Press Release in which, inter alia, they challenged me to a television debate with the Party Leader, Mr Joe Bossano. On that same day, I replied that the matter was too serious and complicated to be properly debated in a television interview, the time for which was necessarily limited, and that the proper forum for a debate was this House. It is in pursuance of that statement and because I feel it is necessary that the important issues raised should be properly ventilated and discussed and that each party represented in this House should clearly state its own position on these matters, that I have proposed this motion. In its Press Release of the 20th of January the GSLP stated that it rejected entirely the basis of compatibility with continuing naval needs as the criteria of the worth of any proposals being considered for an alternative to the Naval Dockyard and that, in my Party's view, the Gibraltar Government should not have accepted the inclusion of this factor by the consultants. I should explain here, Mr Speaker, as Members know, that the whole exercise regarding the defence review was that the ship repair part of the yard had become impracticable under the new defence arrangements, and I am not asserting these things, I am only quoting what the British Government said, but that the Naval Base would continue in Gibraltar despite that and, of course, since both were all part of one, dividing it required some re-arrangement. The release went on to say that the decisions that need to be taken to determine how Gibraltar's economic future is to be secured, must be taken exclusively from the standpoint of what is best for Gibraltar and not what is best for a Naval Base which, like the Dockyard, could be here today and gone tomorrow. Paragraphs (1) and (2) of my motion attempt, as concisely as possible, to reject, categorically and unreservedly, the views expressed by the GSLP. Gibraltar has a long and glorious military history of which we are all so proud. This may not be to the liking of that

pacifist minority which prefers others to defend it or indeed which might not believe in defence at all. But I am certain that the view is not shared by the great majority of the people of Gibraltar who are proud of their city's military traditions and of its contribution to the defence of freedom against totalitarianism. The most recent example of this was given by the workers in the Dockyard in support of the British Government's defence of the Falkland Islands and indeed by the very high per capita spontaneous financial contribution of the people of Gibraltar as a whole. Totalitarianism, in a different but no less ruthless form, still threatens the world and I think it is my Party's policy, which I believe is supported by the great majority of the people here, that Gibraltar should continue, as in the past, to play its part in the defence of freedom by giving its fullest support to Britain's armed forces and to the Western Alliance. Gibraltar's great strategic importance to NATO was recently emphasised by Admiral William Crowe, Commander-in-Chief of the United States Naval Forces in Europe. Perhaps, my Hon Friend will gather some comfort from the fact that he said that he wished the Naval Dockyard should be kept open. I will not quarrel with that part of Admiral Crowe's remarks, I hope they are heard in the right quarters. But be that as it may, he did say that and we also recognise that importance and we are fully committed while we remain in office and insofar as it lies within our power, to ensuring that the Gibraltar Government should support the continuation of the British Naval Base at Gibraltar and should have full regard to the essential requirements of the Base. I do not, Mr Speaker, accuse the Hon Member of pacifism. If he has that streak somewhere inside him, he has so far shown no evidence of it. What, then, is his Party's reason for rejecting, and I quote "the basis of compatibility with continuing naval needs"? It cannot I think be an ideological, socialist opposition to Western defence because the Hon Mr Bossano, like the rest of us, opposes the closure of the British Naval Dockyard. I would only ask here, in parenthesis, whether he would take a different view of a possible commercial Dockyard if we were to accept customers from the other side of the Iron Curtain. Unless the Hon Mr Bossano, in his reply, can give another reason for his own and his Party's rejection of "the basis of compatibility with continuing naval needs", I shall be forced to the conclusion that that rejection derives from a dog-in-the-manger or cut-off-your-nose-to-spite-your-face attitude which itself stems from a deep resentment against Britain for its decision to close the Gibraltar Dockyard from the knowledge that he is unable to prevent that closure and from his refusal to consider any alternative on its merits. I say that with some reservations because I hope the Hon Member will not think that I am misquoting him if I can attribute to him the fact that you cannot reject something until you know what it is. We do not know what it is that is being considered now, or rather we know the way it is going but we do not know what it is until the final analysis has been made. As I stated earlier, the GSLP Press Release states that, quote: "The Naval Base, like the Dockyard, could be here today and gone tomorrow". In my statement of the 21st January I asked

whether the GSLP was suggesting that because the Naval Base may go one day, and certainly there is no indication or suggestion whatsoever that this might happen, in fact, the opposite is the case because we know that part of the re-adjustment of the proposed commercialisation of the Dockyard means putting a considerable amount of money in re-adjusting the Naval Base so that they could hardly be thinking now of re-adjusting and retrenching into areas apart from the Dockyard or the Naval Base, if they were thinking of going tomorrow or the day after. It might as well go now and that its current essential requirements should not have our full support. I hope that when he replies Mr Bossano will confirm or deny that this is his Party's view and will also clearly say whether his Party shares my own Party policy on the question of supporting British and NATO defence requirements in Gibraltar. It is important that the electorate should know where the Hon Mr Bossano and his Party stand on this issue. Sir, I have dealt, so far, with what one might call the philosophy of my Party on the defence of the free world of which Gibraltar forms a part. That philosophy is in itself enough reason for our position. But there are two additional, more direct and perhaps more immediately material reasons for our policy. I stated these on the 21st of January and will repeat them now. First, Britain has the responsibility, quite apart from its wider NATO commitments, for the defence of Gibraltar as such. That responsibility cannot properly be discharged if people in Gibraltar themselves are going to impede it. Secondly, the Naval Base provides employment for 1,110 locally entered persons in Gibraltar. It has repeatedly been made clear that the Naval Base is to remain - the latest occasion being Mr Blaker's reply to a parliamentary question on the 21st February when he made a reiteration which has been so often made in Parliament on the 21st February - and it is surely the duty of every responsible political party to do nothing which would put any single one of those 1,110 jobs at risk. I hope, that in reply, Mr Bossano will also state clearly his own and his Party's policy on Britain's responsibility for the defence of Gibraltar and on the desirability of preserving the employment of these jobs. Sir, if one examines the circumstances in which the GSLP release was published, one is forced to speculate on the possible reason for its publication. It will be recalled that the release was triggered off by a statement made by the Consultants to the effect that the major reason for the rejection of the Blands proposals for an alternative to the Naval Dockyard was that the tourist-related elements of that alternative were incapable of amendment to make them compatible with the essential requirements of the Naval Base. The GSLP release stated and I quote: "The Party is totally opposed to the closure of the Naval Yard and is therefore not giving support to any alternative". Why then should the Party care about the reasons for the rejection or acceptance of any of the alternatives? One can only conclude that the Consultants' statement was seen as an opportunity to make the point that the GSLP is not concerned about meeting the essential requirements of the Base and wanted this to be known. The only possible other reason might be detected in

the last paragraph of the release which states, and I quote: "The decision that needs to be taken should determine how Gibraltar's economic future is to be secured must be taken exclusively from the standpoint of what is best for Gibraltar and not what is best for the Naval Base". In my statement of the 21st January I said that the GSLP had not stated what positive decision it would itself take to determine how Gibraltar's economic future is to be secured. The only response to that is that the statement in the GSLP Press Release of the 24th January to the effect, and I quote: "The GSLP stand by the statement that what is best for Gibraltar's economy cannot be determined by limiting the possibilities to what the MOD will allow" - and that is the end of the quotation. This lack of a positive and concrete approach is perhaps not surprising. The leader of the GSLP has consistently accused the Gibraltar Government of having no economic plan for Gibraltar. He almost gave way to the fact that we had a shape of economic plan at one stage recently, but only once. He has been equally consistent in failing to respond to numerous invitations to reveal his own economic plan. We are all anxious to see what his economic plan is for Gibraltar. He has been invited to produce his magic solution of an economy that would solve all our problems but he refuses to divulge it and I wonder whether he is doing the right thing to posterity if it were to be discovered many years after now, and I hope that he lives for 100 years at least, that he really had a plan that had revealed it all the problems of Gibraltar would have been solved but it was this exclusivity of his knowledge to himself that had deprived Gibraltar of having a resurgence as a result of the closure of the Dockyard. The general principles that he says should determine Gibraltar's economic future are all very well but they are of little use if they are not demonstrated in practical plans and proposals. It is because the GSLP have not identified a specific economic requirement which is, or would be hampered by a Naval Base that one cannot accept that the reason for the release was an economic one. In an interview on BBC Today programme on the 31st March, Mr Bossano was quoted as saying: "What I am saying is that there is no way that NATO and the Americans can have Gibraltar for free, make use of it, have it as a base stocked with computers and electronic devices and mass unemployment. They cannot have the two things". Well, I might be prepared to agree to part of that but I do not think that it is consequential to say that one is necessarily exclusive of the other and I think his compatibility mentality or non-compatibility mentality, was exercising his mind when he made that statement. I cannot guess what he had in mind when he said this and I will not speculate further on the reasons for the publication of the GSLP Release. But what is important, now, Mr Speaker, is that the House, that the people of Gibraltar as a whole and in particular those employed by the Ministry of Defence in Gibraltar, generally, is that we should know the policy of the Hon Mr Bossano and the GSLP on the continuation of the Naval Base and indeed of other British defence interests in Gibraltar. It is my hope and that of my party and my colleagues that he and his party will

share the views I have expressed on behalf of my own party and that he will be able to vote in favour of the motion. In any event I hope that he will respond fully to my invitation to him to explain his party's policy clearly in this House. If at the same time he proposes to release his magic economic plan, then I think we shall be happier even still. If in making my own assessment of his policies on the evidence so far available to us I have in any way misjudged them or misunderstood them, I shall readily acknowledge this. Sir, I now wish to comment very briefly on paragraph (3) of my motion and that is the converse part "trusts that, conversely, the Ministry of Defence and indeed the British Government as a whole, will have full regard in the consideration of such proposals, to the needs of such a yard should it eventually be agreed by all concerned that a commercial operation would be feasible and viable, and to such other needs as may be put forward to the Ministry by the Gibraltar Government in its efforts to diversify and strengthen the economy generally in order to offset the effects of the Dockyard closure". I imagine that the views expressed in that paragraph will not prove controversial in this House. They do, however, present the other side of the coin of the Gibraltar Government's support for the essential requirements of the Naval Base and one which cannot be and is not being overlooked by the Gibraltar Government. The need for the British Government as a whole to have full regard to the Gibraltar Government's efforts to diversify and strengthen the economy in order to offset the effects of the Dockyard closure, is constantly in our minds as indeed I am sure it is in the minds of all right thinking people. I am sure that the British Government is equally conscious of that need. We will continue to press it in all relevant areas such as the release of land. In the more particular area of the consideration of proposals for a possible commercially-operated ship-repair yard, I am informed that in the consultations which have been and are being held, the Ministry of Defence are also conscious of the need to have full regard to the requirements of such a yard should agreement on it eventually be reached by all concerned, and that goodwill exists on the part of the Ministry. I would like to pause here a moment and say that in the last few weeks, perhaps a little more, two or three months, a marked change has been noted in the attitude of officials - because I think the political will has always been there - a marked change has been noted in the attitude of officials dealing with these matters, of being helpful. I will not put it any higher, but having regard to previous experience in other areas it is, I think, worthy of note. Perhaps it is as a result of all the letters of the Hon Member has been sending to all the Members of Parliament. I do not think he believes that. Indeed, it might be said that in the absence of such regard, the flexibility and the viability of a commercial operation could be put at risk. I can release the Hon Member from having any doubt about that and I can say that I know from personal authority, and I am not quoting anything improper, that the direction to be helpful to Gibraltar comes from the very top of the British Government, that is, the Prime Minister herself. In my statement of 21st January, I said and I quote: "that the essential

requirements of the Base should be safeguarded and that no unreasonable obstacle should be placed in the way". That is the end of what I said. I believe that the key lies in the two words 'essential' and 'unreasonable' and that this applies both to the discussions on a possible ship-repair yard and in the more general context of the Gibraltar Government's relationship with the Ministry of Defence. Difficulties begin when, on the one hand, it cannot be shown beyond question that a requirement is essential and, on the other hand, when the attitude of one side or the other cannot be regarded as reasonable. Mr Speaker, I have made no allusion or comment to the snide insinuations both in the release or in the press that supports the party of the Hon Mr Bossano to whether I act on my own or I act on behalf of the British Government. I think that certainly if one is to be guided by the record of support of the people of Gibraltar for defence of the rights of the people of Gibraltar, I think that is the best answer I can give to those unworthy accusations. I beg to move.

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

HON J BOSSANO:

Since I can only speak once I want to know whether I am answering simply the eight Members of the Government or the fourteen Members of the House. It seems to me that the Hon Member has to some extent assumed that his analysis in bringing the motion and his interpretation of it is shared by Members on this side, if it is then I will answer all fourteen now. If it isn't then I would like some indication.

HON CHIEF MINISTER:

I have said nothing of the kind to indicate that but I can well imagine having regard to the policy of the DFBG, that whilst they may not agree with the words that I have uttered I think that in terms of policy anybody who knows the political spectrum in Gibraltar would know that that is so, but that is a matter for other people.

HON P J ISOLA:

Let me assure my Hon Friend I am quite happy to speak. As the main thrust of the Chief Minister's speech seems to have been obviously at the Gibraltar Socialist Labour Party, which is a minority party on this side of the House, as you are very well aware, Mr Speaker, but as the main thrust seems to have been at him this is why I have stayed sitting down thinking decidedly that he would be itching to get up and reply to the Chief Minister at the main thrust but it appears that he also wishes to reply to me.

MR SPEAKER:

Perhaps Mr Bossano is awaiting your contribution to see whether your main thrust is levelled at him.

HON P J ISOLA:

He may wish to reply but I am sure my Hon Friend who assiduously, I think, follows all the Press Releases of the DPEG, and reads them through and through, will of course have read our own press release on this matter that was issued as recently as the 10th February, 1983, so it will be very fresh in his mind. But let me assure him that I have stayed sitting down because I thought he might wish on this occasion to have the privilege of replying to the Chief Minister first of all. But, anyway, I am quite happy to say what we think on it. Mr Speaker, as far as the motion is concerned, what I am going to do is move an amendment to it straightaway and then speak on the whole motion, as amended.

MR SPEAKER:

You want a quick vote on the amendment.

HON P J ISOLA:

I won't want a quick vote on the amendment, I will speak on the substance of the motion having pushed in the amendment at the beginning so then I can speak right through on the views of the Opposition.

MR SPEAKER:

And try to avoid duplication.

HON P J ISOLA:

This is what I am trying to do as well. The amendment that I am going to move to the motion is a fairly innocuous one, Mr Speaker, but rather important, I think, on the issue of the Naval Dockyard which is of such fundamental importance not only now but for the future of Gibraltar and of such fundamental importance, again, not only to the people who work in the Naval Dockyard who obviously are in the front line here, very much so, but to the whole of Gibraltar. The amendment I wish to move, Mr Speaker, is to add a new paragraph (4) to the motion and say: "considers that full consultation should take place between all the political parties represented in the House of Assembly before a final decision is made on the commercialisation of the Dockyard". Mr Speaker, I would like to deal with the motion paragraph by paragraph and make my comments. The first paragraph; "that it is in the interests of the Western Alliance, of the free world generally, and of

Gibraltar itself that the British Naval Base at Gibraltar should be maintained", I do not think anybody, any reasonable person in Gibraltar would quarrel with that first paragraph. I think that if anybody does I do not think he has got the interests of Gibraltar really at heart because it is in the interests of Gibraltar, it is in the interest of British Gibraltar, that the British presence in Gibraltar should be maintained to as large an extent as is possible and that is why, basically, I suppose most of us support the continuation of the Naval Dockyard in Gibraltar. But I think it is worth making this declaration in a motion of the House. It is worth making a declaration in a motion of the House because it is worth bringing to mind, Mr Speaker, the broader issues that affect Gibraltar, the broader spectrum of Gibraltar, and not merely talk of the parochial position of Gibraltar, of the internal politics of Gibraltar or anything else. Gibraltar's importance, Gibraltar's prosperity surely is dependent very greatly on its strategic position in the western world and its prosperity is dependent on that too. Why should Gibraltar, for example, have a much higher standard of living than La Linea or Algeciras, or the Campo Area and I think, basically, that is due to its strategic importance as a British Base in the free world and we certainly subscribe fully to those principles, we do not subscribe to pettiness or petty-mindedness or people in Gibraltar or politicians in Gibraltar thinking they are bigger than the interests that command our situation here. An elected Member can only go so far. The people of Gibraltar are a mere 22,000 and they can only go so far, Mr Speaker, and that is why my party has again issued a press release which I do not think came out on Gibraltar Broadcasting Corporation last night, I think that the person who took it from this House must have left it in his pocket and not delivered it, in which we rejected entirely the statement made by the President of the Chamber of Commerce that the British Government should give Gibraltar some sort of independent status. We rejected it entirely on the grounds that it was neither politically or economically viable. Just because we command a lot of support inside Gibraltar it does not make us tin gods outside Gibraltar, it does not make us big white chiefs outside Gibraltar. People know the size of Gibraltar, people know the strength of Gibraltar, people know the economic base of Gibraltar. And this is why we rejected the seemingly illogical approach of the President of the Chamber of Commerce, who in one breath was saying: "Give us independent status", and in the next breath was wanting substantial aid from the British Government to keep the economy going, commitment to Gibraltar and so forth. How you can reconcile that with independence I do not know. And similarly, in the same bated breath, I would refer to my Hon Friend's public sayings and I think I am sure uttered in moments of illusion or in moments I do not know, possibly my Hon Friend was thinking of other things, talking of independence for Gibraltar and that the British must give all their land up, hand everything to Gibraltar and get out if they do not want the Dockyard, if they are not going to keep the Dockyard they had better get out of everything else. I

am sure that that was made in moments of passion and emotion because equally, Mr Speaker, that is thoroughly impractical because we have another country next door who would walk in the next day and take over - unless you had a British commitment to Gibraltar. And that is how we interpret paragraph (1) of the motion and why we support it fully. In paragraph (2) we now get into more different areas of interpretation. "Endorses the view of the Gibraltar Government that, in the consideration of the proposals for a commercially-operated ship-repair yard, full regard should be had to the essential requirements of the Naval Base". Well, Mr Speaker, we support fully the sentiment in that second paragraph and that is the importance of the Naval Base to Gibraltar. I know and everybody knows that in the changing world that we live in I am afraid there are no absolute guarantees in anything and at the end of the day you have to trust the guy you are dealing with. And if you don't, Mr Speaker, then I agree that you are in deep trouble and you must be worrying every day and you must spend a lot of sleepless nights. Basically, you have to decide whether the British Government will fulfil its pledge in spirit and in fact contained in the preamble to the Constitution and what it means. If you feel there is honour in British Governments or more honour, put it that way, in British Governments than in Spanish Governments or Soviet Governments or American Governments or German Governments or French Governments, if you feel that, then, Mr Speaker, you can sleep more restfully. I have a feeling that British Governments have consistently honoured their obligations by and large over the years and there is this commitment to Gibraltar. The Naval Base is, of course, as we know, part of a greater organisation. NATO is involved, Western Defence, the Free World is involved and, hopefully, as long as British Defence White Papers do not start cutting defence more and more and as long as British Defence Papers continue to agree that the Navy should be maintained and that they should make a contribution to NATO, given those circumstances, the Naval Base in Gibraltar should continue and would continue. But, certainly, I would be worried if a Socialist Government of the type of Mr Tatchell and the pacifists and anti-CND and all that, I won't say all that crowd, those people of that persuasion, got into power it may be that they would abolish the armed forces altogether, get rid of the Navy. And in that situation I suppose the Naval Base in Gibraltar would close and that would be a matter for concern. But I cannot see how we could expect in circumstances like that for the Naval Base to stay open, if the British Government of the day had decided that it did not need a Navy. That is the sort of imponderables we have got but, certainly, Mr Speaker, one thing is certain and again talking on broader issues. Governments, and it has been the story and the history of British interests and British policy since decolonisation got into really full swing in the 1960's and developed in the 1970's, is that the British Government or a British Naval Base, or a British Military Base does not stay where it is not wanted. This has been a sort of basic principle. It happened in Malta and in Cyprus it stayed because the Government there have agreed that it should stay and, therefore, we do in fact have some say, Mr Speaker, we do

in fact have some say, I think, as to whether the Naval Base stays in Gibraltar or other military installations, we have some say. I agree, in the case of Gibraltar because of our numbers it is not that big, but it is, I think that if the British Government or the British people detected an anti-British base in Gibraltar, detected a policy coming through of "British get out", I think that in time, I don't say they would do it straightaway, because of course there are Western interests etc, but I don't think we should assume that irresponsible statements and irresponsible policies that we may follow because they are popular within Gibraltar, I don't think we should assume, necessarily, that those policies would not one day, in fact, be carried out to the detriment of the real interest of the people of Gibraltar and the economic interests of Gibraltar. That is why we say we support the Naval Base fully but, Mr Speaker, having said that, I think that as a Government and as elected Members we are entitled to question and argue as to what the essential requirements of the Naval Base are. This is a matter I think that is important. And I think I would agree with the Hon Mr Bossano there, not fully, we cannot agree with what he said in his Press Release, we cannot agree with it fully, but I think that we would agree that we would expect the British Government, we would expect the Ministry of Defence in a reasonable manner to take account of the requirements of Gibraltar, the reasonable requirements of Gibraltar, without prejudicing the Naval Base. Because it is very easy to say all this is required for the Ministry of Defence. And you get buildings that are empty or you get buildings that are not used, and in fairness there are also buildings of the Government that are not used and are empty but, anyway, the MOD say that they are required for defence purposes. I think there is obviously a need for realistic negotiation as to what is essential for the Naval Base and what is not essential for the Naval Base. It may be very convenient, Mr Speaker, to park a frigate, or a cruiser in front of the Flag Officer's office in The Tower, it may be very convenient to do that because then the Flag Officer can walk across and go on board and say: "How do you do?", but on the other hand if it is possible to park that vessel somewhere else equally conveniently and not prejudicing the efficient functioning of the Naval Base, then it should be done if by parking it somewhere else we give an opportunity for a better use to be made of that wharf in an area which is now not completely Ministry of Defence. I am not trying to do a rallying call, I am trying to be reasonable and I am trying to identify the situation. As far as we are concerned the Naval Dockyard stays, the whole of the Dockyard is there, the whole area is there, no problem. We would agree with it and sign for it tomorrow but once we are commercialising the Dockyard because the British Government no longer has a use for the Dockyard, and once we know, as we do know, that giving up the Naval Dockyard is going to make a big hole in our economy which has to be refilled, that we are going to require a lot more diversification if that same place, then I think a very close and sharp look must be made at what is in effect essential requirements. And the judge of that should not just be, I think, should not just be the Ministry of

Defence but there should be some Cabinet Committee in the final resort that balances the views of the essential requirements of the Ministry of Defence with the essential requirements as set out by the Foreign and Commonwealth Office, of the needs of the economy and so forth. So, subject to that comment on essential requirements, we do endorse paragraph (2) of the motion. When it comes, Mr Speaker, to paragraph (3) of the motion, and what I said covers that as well: "trusts that, conversely, the Ministry of Defence, and indeed the British Government as a whole, will have full regard in the consideration of such proposals, to the needs of such a yard should it eventually be agreed by all concerned that a commercial operation is feasible and viable", we go along with that subject to the provisos there, and this is what I would like to say: "and to such other needs as may be put forward to the Ministry by the Gibraltar Government in its efforts to diversify and strengthen the economy generally in order to offset the effects of the Dockyard closure". Now, I am going to speak now, Mr Speaker, on the basis that the Dockyard will close. I will make some general remarks at the end on that issue but following the motion, on the basis that the Dockyard is going to close, we believe that there is a very serious obligation on the part of the British Government, if it is going to take a step that will cause such an impact on our economy, will cause job losses of some considerable magnitude and will affect the whole base of the economy, which is the Naval Dockyard, that there is a responsibility, a big responsibility on the part of the British Government to ensure that anything that is put in its place, anything that is put in its place, will, in fact, be viable and will, in fact, sustain the economy as the British Government have undertaken that they should do. And therefore we would like to see and we have made a Press Release, Mr Speaker, following the arguments between the governing party and the party of my Hon Friend, Mr Bossano, the GSLP, we did make a Press Release on the question of commercialisation of the Dockyard and on the question of looking at other proposals and trying to work them in with the preferred operator if it is found it should be viable. We say this, Mr Speaker, because we have seen other proposals, we have not been in, obviously, in the consideration of the proposals but what we have seen leads us to believe that assuming that after all the process of selection, Appledore is in fact the right person to work a commercial Dockyard, assuming that is correct, and that is a matter for a Government decision with the British Government, assuming that it is correct, we feel that within that there is scope for other activity in that Dockyard which we stated in our Press Release of the 10th February related to other uses that have been suggested by two parties. One has been Blands which relates to using the part of the Dockyard for touristic purposes and touristic development and we have had a presentation, the elected Members on our side on this, and we were very taken by these schemes together with a scheme for cargo transshipment in Gibraltar which seemed to present new alternatives, or other alternatives, or additional alternatives to commercialisation. We feel that, again I am always talking on the question of viability and I am not

saying that the Dockyard should close at all, I am saying in that situation because I think we cannot be blind to the fact that it can close, that the Government should have as much of a diversified operation within the Dockyard as is possible because once you make any commercial use of the Dockyard as opposed to Naval requirements or Ministry of Defence use, then you are undoubtedly subject to what is happening outside Gibraltar, you are subject to market pressures, you are subject to competition in other markets, you are subject to recessions, depressions and so forth and therefore a commercial Dockyard, fullstop, may not be sufficient in those circumstances. We think the Government should look at the other uses put for the Dockyard and we have also mentioned in our communique the question of a solar breeder factory which we would also like to see investigated because again what we have heard and seen about that, that provides great employment opportunities. We think that all this should be done on a broad basis if the Dockyard is to be closed. It will be very difficult to keep eggs in one basket. Diversification will have to be the order of the day. In this, Mr Speaker, and that is why I come back to paragraph (3) of the motion, we say "that the Ministry of Defence and indeed the British Government as a whole will have full regard", because, no question about it, without the assistance of the Ministry of Defence and the British Government it will just not be possible to do these things and I think there is a need for a full hard look to be taken on the diversification issue, it is most important if the Dockyard is going to close. Finally, Mr Speaker, the last paragraph, in our amendment we say we consider that full consultation should take place between all the political parties represented in the House of Assembly before a final decision is made on the commercialisation of the Dockyard. Now, Mr Speaker, that paragraph we consider to be vital. Gibraltar will go through a traumatic change if that Dockyard is closed. The whole future of Gibraltar is really put in the melting pot and it is our view that in such a situation it is wrong for a single political party in Gibraltar, for a single group of elected politicians, even though they represent the majority of the people of Gibraltar, to commit Gibraltar to a future without first having taken or having fully informed other parties representative of opinions in Gibraltar, of having informed them of the considerations that lead them to this decision, of the facts about commercialisation, of the risks that are involved in commercialisation, and I think we have to be very, very fully informed and should be fully informed on final decisions. We accept, and I think we have to accept the argument that has been put by the Financial and Development Secretary in the course of answering questions yesterday that there is a limit to the information that can be given out at any particular stage in time because of the confidentiality of the matter, of the sensitive areas involved. We accept all that but I am afraid there must come a time when we must be let into confidence and see everything that is necessary to come to an informed view on the situation. I hope, Mr Speaker, that at the end of the day it will be possible to get full agreement of all elected parties, full agreement of all

elected representatives to what happens at the end of the day because I think that on matters that are really fundamental to Gibraltar there must be, Mr Speaker, a way of coming to an agreed consensus on a situation. It may not be what one party wants or what the other party wants but there must be, surely, a way of finding a consensus on the matter. We are sorry that the Governor's Committee became defunct after my Hon Friend, Mr Bossano, decided to leave it as he felt he could not contribute usefully any further to it. I think it is a pity because I think if we walk out of situations too soon, we tend to shut doors and shut avenues of information and, also, we tend to stop the process of talking and trying to come to some consensus. My party's view is, we have put it out in Press Releases, Mr Speaker, is that we feel that the British Government should consider seriously and should continue the Naval Dockyard in Gibraltar. We have said this, we have made representations to this effect, we have talked to Members of Parliament, my Hon and Gallant Friend, Major Peliza, has been rather active in this regard in recent months but we also accept that at the end of the day it is a decision that has to be made by two parties, the Gibraltar Government on Gibraltar interests and there is also the British interests and the British Government's decision. Unfortunately, Mr Speaker, as we are not integrated with the United Kingdom, we have not got a vote in Parliament and at the end of the day it is the British Government elected by the British people that will decide this issue. This is a fact of life and that is why we go and see Members of Parliament. The other day I was in London talking to the Chairman of the British/Gibraltar Group and I had the opportunity of telling one of the Noble Lords in the House of Commons who Mr Bossano was, he had asked: "Can I talk to Mr Bossano?" and I saw my Friend down the road there and I said: "He is over there", and this is why we go and speak in the House of Commons because we recognise that the final decision is with London and I think that that is a fact of life. And if London is determined to close the Dockyard and London has a majority of Parliament that will support them in this, then it will close whatever we do, whatever we say. We may get bitter about it, we may decide to start an independence movement, we may decide to shove up this new flag we have just got up there and say "Gibraltar for ever, out British, out Spanish", and live three months afterwards or we may decide to say: "Well, look here, this is the problem, we accept the closure of the Naval Dockyard, we have no choice but you show me that the alternative that you give is a viable alternative and give us a viable alternative either with the diversified use of the Dockyard, the commercial use of the Dockyard with economic aid to put the economy on a proper footing and you show us because you are finally responsible for our economic stability, you the British Government, you show us that it will work". I know that it is a very, very difficult problem, Mr Speaker. I know we are going to have some very, very difficult times ahead because the day of decision is approaching, the day of decision is approaching and that is why I have put in this last paragraph urging that there should be full consultation between all political parties before a final decision is made. Mr Speaker, subject to the remarks I have made on the motion and the amendment I propose, we will support the motion, with my amendment.

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

HON J BOSSANO:

The amendment puts me in a slightly difficult situation, Mr Speaker, because I do not object to the amendment, I object to the motion, and therefore I feel I cannot vote against the amendment which is simply asking for full consultation to take place and, in fact, I think it must be obvious from the questions I was asking earlier on in the House that I think that the Government is not giving out enough information. The Hon Member said that he accepted what the Financial Secretary had to say about the limit to the information that could be available because of the confidentiality. But when we are still being told on the one hand that PEIDA is now out of the picture and that what they think about the prospects for success are no longer relevant because the present consultants do not share that view, although they have not been asked and yet, on the other hand, we are told that their original report produced in August/September, 1981, is still not available, still confidential, then it seems to me that the analysis is one that it is not a question of confidentiality, it is a question that we are being pushed along a particular road, the decision has already been taken, and the process of consultation is only worth having if it is predetermined to produce the answer that is being looked for. As far as this amendment is concerned, I cannot disagree with its wording and therefore I am going to vote in favour of the amendment and then I think I can talk on the main motion, answer the points made by the Chief Minister, because it is quite clear, I think, from the presentation of the motion that the motion is more about the position of the GSLP than about the commercialisation of the Dockyard. The Hon Member said that this was the alternative to discussing the GSLP policy with me on television. This is what it is about.

HON CHIEF MINISTER:

On the question of the compatibility of the Naval Base.

HON J BOSSANO:

Right, on the compatibility of the Naval Base and in fact on the whole question of the attitude of the Gibraltarians to a continued military presence in Gibraltar which is what I am going to deal with later on and I am not dealing with here. Let me just therefore only make one point in relation to the things that have been raised which are different, by the Hon and Learned Leader of the Opposition in the amendment to the motion. And that is (1) I am grateful that he recognises that there is some validity in saying that the MOD cannot be the arbiters of what is necessary for the MOD because I think it is the starting point of departure of the analysis of the GSLP, although we go much further along that road than Mr Isola

is prepared to do. I think the other thing is on the question of my leaving the now defunct Consultative Committee. I would like to give him an answer on that. I left the Committee because we were there, as I saw it, looking at the implications of the closure and the possible alternatives, in a spirit of realising the problem that would be created but still totally committed, as we were in the House, to say we did not accept the closure and, in fact, the meeting that I left was the meeting where the timetable for implementation of commercialisation was being debated and I thought it was totally incompatible to be saying I am opposing something and at the same time discussing its implementation. It seemed to me that the two things could not carry on together and I thought it was impossible to be honestly maintaining the line I was maintaining outside that Committee and doing something different in the Committee. I did not feel I closed any doors, in fact, I felt I was being dragged down a particular path that I was not prepared to follow and I am still not prepared to follow today. That is the reason for my leaving the Committee, Mr Speaker. I will be voting in favour of the amendment and then I will speak on the motion.

HON CHIEF MINISTER:

I think I can deal with the amendment when I reply generally. I have no particular reference other than the fact that the terms are wide enough to cover any possibility of the matter being considered if consulted confidentially even amongst the Members of the party and therefore I have nothing to say on that until I reply generally. I am certainly not going to oppose it.

MR SPEAKER:

Does the Hon Mr Isola wish to reply?

HON P J ISOLA:

No, Sir.

Mr Speaker then put the question in the terms of the Hon P J Isola's amendment which was resolved in the affirmative and the amendment was accordingly carried.

Debate continued on the Hon the Chief Minister's motion, as amended.

HON J BOSSANO:

Mr Speaker, I welcome an opportunity that the Hon and Learned Chief Minister is giving my party, in spite of its limited representation in the House, to explain its policy on this matter and indeed hopefully to persuade other Members that that is the correct policy to follow. I shall be dealing, first of all, with the analysis of the Chief Minister of what

our policy is and bringing him back to the correct path where he has strayed away from it in his analysis and then, Mr Speaker, I shall be moving an amendment to the motion myself because in fact the amendment that I propose to move is one which effectively states the GSLP position and therefore, eliminates the position before the House at the moment. The amendment I will move after I have given an explanation in reply to the Chief Minister because in moving the amendment I want to concentrate on what the policy of the party is and the amendment effectively will be eliminating all the words after the words "This House" in the usual tradition of this House, Mr Speaker. Let me say that in giving a time-table of the controversy, an accurate time-table of the controversy, the Honourable and Learned Chief Minister had not gone into sufficient detail. We have, Mr Speaker, to go back to the presentation made by the teams of consultants consisting of Coopers & Lybrands, A R Belch Associates and PEIDA, PEIDA being the people who produced the original study, the study that originally analysed the consequences of the Dockyard closure and the possible alternatives. PEIDA has been involved in the Port Study, which is also confidential, and in a number of other studies about other possible alternatives which are also all confidential. It is very difficult that we are expected on the one hand to give leadership to the people of Gibraltar, and where we have this difference of opinion we can only do that by leaking information which they are not supposed to know, they are not supposed to know on what basis. If we differ in an analysis of a situation, we cannot defend different analyses because we are not supposed to reveal the source. Therefore, we have a situation where in that presentation we are given, Members of the House, Trade Unions, Chamber of Commerce, and so on, invited to that presentation, are given a synopsis of the selection criteria used by these three firms. In that synopsis Mr Speaker, it says: "Selection of preferred operator. The proposals were evaluated against the following criteria: (1) utilisation of resources (2) capital programme and cost (3) naval support programme (4) extent of subsidy required (5) commercial viability (6) management proposals (7) employment creation (8) potential contribution to income and employment for the Gibraltar economy" - and one would have thought one would turn the page over and find (9) compatibility with Naval Base, but it is not there. In fact, the consultants themselves did not say at that stage that that was the criteria. What they did say was that in rejecting the Blands proposals, one of the things that they had noticed was that the tourist element in it was in fact impinging on the Naval Base, but it was not listed as one of the eight sets of conditions that had been laid down. Blands then came out with a public advertisement rejecting the selection of Appledore, that is, defending its position as somebody that had put in a bid and been rejected, which they are perfectly entitled to do, and it is in that context, obviously, that the GSLP position has to be understood. The GSLP was not saying in its release that it was supporting Blands or anybody else. What the GSLP was saying was that it did not think the Gibraltar Government should have accepted the argument of the consultants which certainly was not put clearly across in the press release No. 129 of 1982 produced by Government Secretariat. Blands, themselves,

say: "We fully accept and recognise that the military base element of employment provides for Gibraltar a high output economic benefit and should not be prejudiced. At a meeting with the Gibraltar Government Consultants in London on the 5th July we were informed that the Blands scheme raised certain difficulties with the area required to be retained by the Naval Base. Blands subsequently offered to alter their proposals so as to allow Naval Base possession of the General Manager's Block, thus leaving the Naval Base direct access to the waterfront. One does not know the detailed negotiations that have taken place or anything like that, one goes on the basis of what had been published, first of all, by the Government and then by Blands. And then, surprisingly, because it is not a very common thing for consultants to put advertisements in papers, the consultants come out with an advert which represents, presumably, the view of those who put and paid for the advert and not of the Gibraltar Government, and there they highlight the question of the incompatibility between Blands and the Naval Base. In the three paragraph advertisement it is the part that clearly stands out. They also made some references to employment and so on but that was on a controversial issue. We then came out with a Press Release which quoted the advertisement of the consultants which said the tourist related elements were incapable of amendment to make them compatible with the essential requirements of the Naval Base. And we said that in our view the Gibraltar Government should not have accepted the inclusion of this factor by the consultants. That is the essence of all that we said about the Gibraltar Government. What we were saying was that if we had been the Government it would not have been the consultants who would have decided whether Blands was incompatible or not incompatible with the Naval Base. The Government would have taken a decision on what the Naval Base could have or could not have, if the Government has got the responsibility of looking after Gibraltar. That produced a three-page reaction from the Chief Minister, totally out of all proportion to the two lines in which we had mentioned them, Mr Speaker. It was not the consultants who defended themselves, it was the Chief Minister on his own behalf and on behalf of his ministerial colleagues, who then went on to say a lot of things and, effectively, to challenge GSLP and accuse it of not having an alternative because we had said we rejected or we were not given support to any of the 8 alternatives the consultants had been discussing. Well, that is a lot of nonsense, Mr Speaker. The GSLP was the party that brought the motion to the House in July, 1981. The GSLP was the party that at that time was prepared to take the most moderate line and to work together with the British Government. But already that approach has been turned down by the British Government and it will get us nowhere if we keep on following that approach. So what does the Chief Minister then tell us in his advertisement? He tells us a lot of things. He tells us much more than anybody else has said before. He said: "It must be accepted as a fact of life that the British Government had decided to close the Naval Dockyard". Then I ask the Chief Minister and the House of Assembly. Is it going to vote to say that we are opposed to a fact of life? Does not the first sentence in the motion before the House say we are still opposed to the closure. To the closure described on the 21st January by the same Chief Minister

that brings this motion to this House as something that must be accepted as a fact of life, then what are we doing opposing it if it is a fact of life? What has the Government done to oppose it so far? As far as I am concerned, Mr Speaker, the only Member of the House of Assembly who has paid more than lip service to the question of opposition has been the Honourable and Gallant Major Peliza, whose commitment to opposing the closure can be in absolutely no doubt because he is untiring in his efforts to persuade people in the United Kingdom that the closure should not be proceeded with. That is what I call opposing something, not simply three lines in a motion and then we all go home and go to sleep. And we know the process is there, we know what is taking place, Mr Speaker. Otherwise we have no business to be in this House of Assembly if we are not aware that there is no question of decisions waiting to be taken or analyses waiting to be done or studies being done. What is happening is that there is opposition in Gibraltar and the Dockyard is not closed already, or in the process of closure already, because there has been opposition in Gibraltar, for no other reason. And Appledore knows and the British Government knows that it cannot be delivered without the consent of the people who have to do the job. We can pass 100 motions in this House of Assembly but if nobody wants to work for Appledore, Appledore cannot open shop unless we are saying that we are going to have all the Gibraltarians out of work and import 500 Spaniards for the Gibraltar Dockyard which I am sure even those who might support commercialisation would consider to be total nonsense as an alternative. So then we replied to the Chief Minister and we invited him to come on television since he is so interested in analysing our policy. Obviously, given the amount of verbiage in his communique to our two-line mention of our view, he must, really, and I think he has shown me today in his introduction of the motion, Mr Speaker, he almost analysed every fullstop and comma in the GSLP Press Release, as if it was chock-a-block with pearls of wisdom. I am really impressed with the attention the Honourable and Learned Member pays to the statements of the GSLP, with just one member, when we have all 14 I don't know what is going to happen, Mr Speaker.

MR SPEAKER:

Why aspire only to 14 when you could have 15?

HON J BOSSANO:

Because if I make it 15 he would not be able to comment at all, Mr Speaker, even he would be out. Having arrived at the point of the motion before the House which as I say is unacceptable to our party, I have to ask myself what is the purpose of the motion. If we take it purely at face value then it may be no more than having said in public that the proper forum for the matter to be debated was the House of Assembly, the Chief Minister felt it had to be followed up by a concrete offer to debate it by the introduction of the motion. If you want to put a machiavellian interpretation on it, and we tend to do that in Gibraltar, perhaps the House will forgive me if I do, then this can be seen as a statement of the preferred policy of the British Government as far as the position of the Gibraltarians is concerned.

HON CHIEF MINISTER:

Mr Speaker, I resent that remark because it attributes to me not a sincere intention in the motion but an ulterior one, as if I was bringing the motion at the behest of anybody else, other than my party, and I resent that and I hope the Honourable Member will realise that he has offended me by saying that and if it is not his intention I would ask him not to pursue that line.

HON J BOSSANO:

Let me re-phrase it, Mr Speaker, so that I give less offence to the Honourable Member although I may not be able to avoid giving him any offence at all. Let me re-phrase it. Perhaps the Honourable Member who has told this House many times that he knows what the British Government thinks, knows that this is how the British Government thinks and not that he has been told to put the motion in the House by anybody else. After all, he has told the House before, I think it was when the Honourable and Learned Leader of the Opposition failed to persuade him on the Friday about the closure of the Frontier, that without having consulted the Foreign Office he knew what the Foreign Office reaction would be and in fact he was proved right on the Tuesday when they told him he could not do what he had decided to do on the Sunday which he had told us on the Friday could not be done, I am not saying that he has been ordered by Whitehall to do it, I am saying that this line is certainly the line, as far as I am concerned, that the British Government has come to expect from Gibraltar and as far as I am concerned, Mr Speaker, it is a line that the British Government will continue to find in Gibraltar for as long as they treat the Gibraltarians as they have treated them up to now. But they are not doing it any more and they have not been doing it since 1981. That was quite clear from the statement of the Honourable Minister for Economic Development about their tribulations with regard to aid. The rules of the game are being changed, Mr Speaker, and as long as we carry on playing by the old rules we will lose the game. There may be risks in accepting the new rules, I am not denying that, and therefore it is a matter of political judgement and it is a matter of political leadership. But the mood in Gibraltar is changing, let this House not be mistaken, and therefore I am sure that in a debate of this nature which has I think clearly been pointed in the direction of saying what is the way the Gibraltarians react to Britain's defence presence in Gibraltar, I am sure that this will be reported back to Whitehall, after all, they have their Assistant to the Deputy Governor whose mission in Gibraltar, as I have said on many occasions, is to report back to UK, although we pay his salary, one more.

HON CHIEF MINISTER:

No, we do not.

HON J BOSSANO:

I believe his mission to be to report back to Whitehall, Mr

Speaker, or to the Foreign Office.

HON CHIEF MINISTER:

He is an adviser to the Deputy Governor or the link on foreign affairs because of the diversity of the work of the Deputy Governor, provided by the Foreign Office. He is not on our pay roll.

HON J BOSSANO:

Oh, well, that at least is an encouraging thing. I trust that those who pay him insist that he sends back an accurate report of these proceedings. In December, Mr Speaker, my party used its one political broadcast a year to tell the people of Gibraltar where we stood on this issue. So, in fact, what I am going to say in the House today which may not get as widely reported as I hope the audience we had for that day, will catch nobody by surprise. We are not attempting to water down our stand and this is why, in a way, I feel that there is no way that I can attempt to achieve a compromise or a consensus on the motion before the House because I think it is essential that the British Government should understand the degree of commitment that there is in our party to the stand that we have taken and that it is an uncompromising one, we are not prepared to water it down. We said in the broadcast that we had taken a stand on the question of the Dockyard from the day it was first announced in July, calling a public meeting and explaining to those who had come to that meeting which was, in fact, not very well attended, what the CSLP position was. We put those views to the British Government in a memorandum in July, 1981, even before the PEIDA Dockyard Study had been conducted, Mr Speaker. We said that our views had been simply ignored by the British Government. They just acknowledged the fact that they had them and there was no response to them. And then we went on to say that we are not prepared to accept that we, the Gibraltarians, have to try and make the economy of Gibraltar work with those assets that the Ministry of Defence can find no better use for from time to time. Not only is it unacceptable in principle, but it is not a practical or possible way to run the economy efficiently. We are saying not just that we do not agree with it because at the end of the day if we do not agree with it and the Honourable Member and his party does and the Honourable and Learned Leader of the Opposition and his party does, what we are saying is that they are going to fail. We are saying commercialisation is going to fail, Mr Speaker, not because we are going to stop it but because it cannot be made to work by anybody. That is what we are saying. And we are saying if it is possible to find an alternative economic strategy for Gibraltar which gives us long-term stability and economic viability there is only one way that it can be done and it is an extremely difficult thing to do, but there is only one way that it can be done, and that is by looking at the whole of Gibraltar, from Four Corners to the Lighthouse, and see what use is being made of every inch of ground. It is the only asset we have. And then we have to look at it from the perspective of saying, are we maximising the return that we are getting. And we have

to say to the MOD: "Look, there are two ways of approaching this. Either the British Government is responsible for Gibraltar's economy and then you have what you have had until now, that you decide what is used for what and when, and we just pick up the crumbs off the table". That is the way it has been going on all the time. We are not going to change it because if we were trying to change it we would not be pressing for the Dockyard to stay open. The Chief Minister himself recognised that. So what we are saying is that either the British Government has got the power to overrule us and the responsibility for our standard of living, or we have it. We cannot have a situation where we are told here we cannot do anything about attracting ships to Gibraltar because that is a non-defined domestic matter. OK. We cannot do anything about that because that is not within our prerogative. We are trying to borrow £10 million but we have not yet been given approval to borrow. We have now, Mr Speaker, yes, but what I am saying is that we should not find ourselves in a situation we were a year ago. Suppose we had not been given permission to borrow, then what? What do we do? We are not given money, we are not allowed to borrow, what do we do then? Well, that requires an analysis of what we are and where we stand. I have no doubt where I am and where I stand and I am prepared to defend it all the way and let the people decide. I will not water it down, Mr Speaker, and I will not be put on this issue on the defensive because I think Gibraltar has got one chance and one chance only of survival and that is the road that I am urging this House to pursue. Where does the House stand on its opposition? This House is now going to vote for the motion because I imagine that however ably and eloquently the Honourable and Learned Chief Minister says I defend the position of my party in this House, and I am grateful to him for those remarks, I may be doing it very ably and eloquently but I frequently fail to move anybody when the time comes to vote. I have not got any high hopes that my eloquence will produce a different result today. But let me just analyse what we are saying in the motion. "Whilst still opposed to the British Government's decision to close the Naval Dockyard". Are we still opposed? I asked the Honourable Member a year ago, in March 1982, when we had come back after taking the memorandum to the United Kingdom, and I am quite clear what that memorandum was about. That memorandum was about asking the British Government not to close in 1983. We said in that memorandum: "We are not telling you how long the deferment should be for but we are asking for a deferment". And a deferment asked for in February, after a meeting with the Trade Union Movement and Mr Blaker in January, where Mr Blaker said in that meeting that the closure of the Dockyard would start in 1983 and the Chief of Fleet Support sitting next to him said: "Minister, start and be completed in 1983". Where the timetable that Appledore is working to is that redundancy notices will be issued in June because under the UK redundancy procedure, and there have been no negotiations with the Unions on redundancy, Mr Speaker, because like everything else, like consultation and everything else, the interpretation being given to words is something that defies what one would find in a dictionary. One would have thought and I have always understood negotiations to mean that people start with different position initially and they gradually find common

ground in the middle and shift from their initial position. What the Ministry of Defence understand by negotiations is that we sit down with them, they tell us "You can have the same as we gave Chatham" and we say "Yes". That is not negotiation. At the moment there is no agreed redundancy procedure and no agreed redundancy compensation with the Ministry of Defence in Gibraltar and at the moment the MOD is working on the assumption that when the crunch comes, with or without the approval of the Unions, they will implement what they implemented in UK. No honest trade union leader or negotiator will go back to his members and say, "Look, this is what I have negotiated for you", when in fact all that has happened is that he has been told "This is what you can have, take it or leave it". That can be done straight with a member. And that is the situation. We have a situation then where the Chief Minister told me last year that he did not agree with me, in March, that we had been told "No" when we had asked for a deferment. In page 334, Mr Speaker, of the Hansard of March, 1982, the 17th of March, he said: "No, I do not think we have had a no. We have had a perhaps, we have not had a no, we have not had a yes, we have not had a no, that is the difficulty". I do not think Mrs Thatcher actually is like that. The Chief Minister may be like that but I do not think that Mrs Thatcher has got any problems in saying no. She says it all the time. That is why we have to wait and of course the waiting cannot be indefinitely. The time limit is coming near. In March, the time limit is coming near when we have to go back for an answer. Well, we are now coming round the anniversary and I certainly did not think it would have to be beyond the anniversary of the statement he was making then when he was talking about the time being near. But, in fact, a month after he said that, Mr Speaker, Mrs Thatcher wrote to the Deputy General Secretary of the Transport and General Workers Union on the 16th of April and said that to suggest that Her Majesty's Government's decision to close the Dockyard can be reversed or deferred would be both wrong and liable to discourage interested firms. Now, if that is not a no, well, then fine, if it is not a no I am glad to hear it is not a no. But I think that if we have not had a no, we need to go back and establish whether we are getting a no or we are not getting a no. Because, after all that was what the memorandum was all about and everybody agreed that it was important to have unity and that we should all go on the same basis and it meant that people like myself and the Trades Council who had taken a harder line agreed that we should fall into line with the people who felt that a more moderate line had to be taken because it was important to have a united front. So we go with this united front, we come back with different versions of the response that the united front has produced and a year later I do not know whether we are all now agreed that the end of the road has been reached on that or whether we are still at odds about the interpretation. Given that, Mr Speaker, I have to say that my own analysis of the whole saga of commercialisation is that even before anybody had heard of Appledore in Gibraltar, Appledore had been selected. That is my analysis, Mr Speaker. My analysis is that PEIDA knew what they had to recommend even before they had arrived in Gibraltar, Mr Speaker.

HON CHIEF MINISTER:

If the Honourable Member will give way. It is a matter, of course, for you, Mr Speaker, but the motion is about the Base, not about the closure of the Dockyard. If the closure of the Dockyard is going to be discussed here, it should be discussed in a substantive motion.

MR SPEAKER:

I think it deals on the methods and effects of the closure of the Dockyard, other than the Naval Base.

HON CHIEF MINISTER:

Yes, but the motion itself is positive on the basis of the continuation of a Naval Base and whether you have a Naval Base with or without the Dockyard.

MR SPEAKER:

Conversely, you say that the Ministry of Defence and indeed the British Government as a whole will have full regard in the consideration of such proposals to the needs of such a yard should it eventually be agreed that a commercial operation would be feasible and viable, and to such other needs as may be put forward to the Ministry by the Gibraltar Government in its efforts to diversify.

HON CHIEF MINISTER:

It is not on an analysis or a post mortem on what is happening on the Dockyard. I don't mind, of course he can go on like that but, as far as I am concerned at this stage in this debate I am dealing mainly with the question that whether the Dockyard closes or does not close, we feel that the Naval Base, which he has made it incompatible with a commercial dockyard, his party, that is why the thing is brought here. We could be talking about PEIDA and about everybody for months and it does not go to the root of the substance of the motion which is whether without the Dockyard, Gibraltar or the elected Members want compatibility which is what has brought about this question, that is, whether we should have a Naval Base or not. The point is that I am not going to answer the whole question of the closure of the Dockyard. As far as I am concerned I will answer some of the personal references, of course, to try and explain what he was quoting, of course I will do that. But I am not going to answer or go into a matter when we have been answering questions yesterday, about the fact that the whole matter is still the subject of discussions and neither the British Government or the Gibraltar Government are committed to it.

HON J BOSSANO:

Mr Speaker, perhaps I would just remind the Honourable Member that it is this same PEIDA that I am talking about that is responsible for the advertisement that produced the controversy.

So I think it is very relevant if we are analysing whether Blands proposals were incompatible with the Naval Base, the people who said that they were incompatible were these same firm PEIDA that I am talking about, Mr Speaker. And I have just said that as far as I am concerned, PEIDA knew what they had to say before they came to Gibraltar. And as far as I am concerned what PEIDA is telling the Chief Minister is what the British Government wants the Chief Minister told by PEIDA, that is what I am saying. And I think that it is very relevant to this motion. Yes, what the British Government wants. That is what I am saying. I am saying that PEIDA is at the service of the people who pay them in UK, that is what I am saying, Mr Speaker, and so does everybody else. I have not seen the report that PEIDA produced. I have only seen the part of the report that PEIDA chose to present publicly. I am not entitled to see the report, Mr Speaker, as a Member of this House of Assembly. However, many people vote for me, I cannot see the report that the Chief Minister has got which decided that Appledore was not incompatible, but Blands was incompatible and to what extent they were incompatible and what loss of jobs there would be. The Chief Minister has said, in his defence of the consultants, that the GSLP position would put 1100 jobs at risk. That was the headline in the Post, 1100 at risk. So what are we saying, that if the alternative had been Blands, the Naval Base in its entirety would have closed down and sacked 1100 people, or would it just have been the Admiral's driver. I don't know, because I have not seen the report, Mr Speaker, and I am not entitled to see the report and I have been asked to endorse something, and so has every other Member of the House, which is based on advice which is based on a report which we don't know. Perhaps, given the difficulties in which the House is being put by the Honourable and Learned the Chief Minister, it might be an appropriate moment if I moved my alternative, Mr Speaker, and I move the amendment which places no such constraints on Members and use that as an appropriate point in which to persuade Members to support what I am saying. I move, Mr Speaker, that the motion be amended by the deletion of all the words after the word "House" in the first line, and the substitution of the words "is totally opposed to the closure of the Naval Dockyard, considers this policy to be against the best interests of the United Kingdom as well as Gibraltar, as evidenced during the recent Falklands crisis, and appeals to Her Majesty's Government to reconsider its decision. If further considers that Gibraltar's economy cannot be made viable through a diversification programme on the basis that the resources made available are determined by the military establishment and that, in view of the alleged value of Gibraltar to the Western Alliance, the opportunity cost of the military base should be identified and adequately compensated for". That is the philosophy of the party.

MR SPEAKER:

Could I have a copy of your amendment?

HON J BOSSANO:

Certainly. Is that a philosophy of "British go home"? I do not

think it is, Mr Speaker. No, it means stay here but not subsidised by me, that is what it means. Because as far as I am concerned, if there is, as there is, Mr Speaker, at the entrance of Eastern Beach a military establishment which contains very valuable equipment flown in from the United States, which was put there, trenches dug, and the equipment put out into the seabed, and the only economic result of that particular operation was the three Moroccans digging the trench, we have got a piece of land there which I do not want to know what it is used for but I want to know one thing, what Gibraltar is getting out of it? As long as we do not have economic problems that is fine, we do not change anything, but if we have economic problems and if we are being told we cannot depend on Britain to give us hand-outs because, after all, the economy there is very bad and unemployment there is very high and we are living in a very difficult world and we have to stand on our own feet, well, we might need that piece of land to stand on our own feet. So we should go along and say: "Right, this is what we would be able to do with that". This economic plan that the Government seems to think I carry in my briefcase and I have very many times very patiently tried to explain, Mr Speaker, that I am talking about economic planning, which is an approach, a philosophy, to the role of Government. And if that Government looks at all its resources and decides which resources it develops as Government, which resources are developed by the private sector, which resources are used for defence purposes, and what each costs Gibraltar. And we do that because in fact we have no choice. We have been told we have to manage on our own and there is no way we can manage on our own on the present setup, Mr Speaker. We can only manage on our own either by taking the responsibility and having the power to discharge that responsibility, or else we have to say to Britain: Look, it is not on. You have to do what a lot of people wanted in Gibraltar a very long time ago and which I am still prepared to support today if somebody comes and tells me that the British Government has changed its mind, and that is to get intergration. But the position is that the British Government has said no to intergration and as I see it I cannot force them because they have to want to intergrate with me as well as me wanting to intergrate with them. I cannot force them but what I can tell them is that they cannot have their cake and eat it and that is what they are trying to do with us in Gibraltar, Mr Speaker, and we will not play ball with that, the GSLP will not play ball with that. And at the end of the day when the results of the present study come out and I predict what the result will be just like we predicted some time ago that Appledore would be selected, because Appledore, the individuals in Appledore, Mr Speaker, were involved in the rundown in the naval base in Singapore, in the rundown of the Naval Dockyard in Malta, in the changes in Cyprus, they are experienced people that have been previously used to do the same job by the British Government in other places. That is what they are there for, because Appledore, Mr Speaker, has been engaged by the British Government before they came to Gibraltar in a cost cutting exercise in British ship-builders which has not been very successful, in fact, because the losses have been much bigger since they went into cut costs than before they went in. I can tell the House that the last report of British shipbuilders show that on the ship repair side, British

ship builders since its incorporation in 1977 ...

MR SPEAKER:

Let us not go into the Report.

HON J BOSSANO:

No, I am only going to quote the figures, Mr Speaker, because I think it is relevant. They have lost £45 million as a trading loss, and something like £110 million at the pre-tax level. Given that, we are going to get the people who know this because they have been doing it over there, telling us that in Gibraltar it is different, they can make it work. Alright, well we can discuss it all we like here but at the end of the day, of course, irrespective of whether it can work or it cannot work, the people whose jobs are at stake are going to have to be consulted and this is where the Chief Minister quoted me about what I said to him when I saw him after Appledore had been selected. I said "Look, as far as I am concerned, the people in the Dockyard cannot accept or reject something before they know what they are accepting or rejecting. It will have to be put in front of them". And my advice to the Trade Union Movement has been, and I have said so publicly, and I have said to the Membership, and I have said so to the Head Offices, I am not the policy maker but the advice that I am giving and the advice that I will give is that this is too serious a matter for anybody to take a decision for anybody else. I think the people involved have to decide. But irrespective of what they decide, the GSLP will make its own political judgement and come out with its political position and on the basis on all the information that we have available and we probably we have as much unofficially as other people have officially, on that basis we are predicting that this is a con, that this is a failure. Even if the people accept it in the Dockyard, it will still fail, Mr Speaker. And if we thought it could succeed, we would come out politically and say: "This should be agreed to, this should be supported because this is the answer to Gibraltar's economic problems and this can save our economy", even if the people did not want to accept it, they are two separate issues. One is the issue of the man who is going to work somewhere on a set of conditions to do a certain job and it is his prerogative to decide whether he works or he doesn't. You cannot direct labour in a democracy, you cannot say to people: "You have to work for Appledore because the Government of Gibraltar wants to have a commercial dockyard or the British Government wants to have a commercial dockyard". You cannot do it, so the people there will decide whether they work for them or not and I have a suspicion they will vote with their feet. I have already told Appledore what I think, I have told them already that my own judgement is that people in the situation that would develop if they went ahead and if their proposals were accepted, people would then have a situation where there would be first, the dole, second, Appledore, and then everybody else. And they would only chose Appledore if they have to chose between the dole and Appledore and they would only stay in Appledore until they find somewhere else. That is how the commercial dockyard would work or would not work, as the

case may be. Is the policy that I am putting forward to the House in my amendment such a radical policy, is it an anti-British Policy? Does it put at risk the Western Alliance? I do not think it does. I do not think that I am in a position to judge how good or how important Gibraltar is to the Western Alliance. Obviously, Appledore is because they chose to come out telling Admiral Crowe that he was completely wrong in his analysis about the need for a Naval Dockyard, their dockyard can provide the Western Alliance with everything they need, never mind the Naval Dockyard. Of course, Appledore have got a vested interest in persuading people what a good idea it is. It is a good idea for them, Mr Speaker, they stand to make a lot of money out of it. It is a good idea for them, for nobody else. Now, in our own position on this matter, what we are saying is what I said about the example of the installations in Eastern Beach. I think the British Government has got to come clean with us. I think we have to accept in this House of Assembly that Gibraltar is not going to stay as a colony for evermore and it is not going to stay as it is for evermore, that the direction in which we have been edged to go has been there all the time. In 1972, Mr Speaker, I came back to Gibraltar to stand for election because the idea of a lease was being floated and Gibraltar was in danger and I am absolutely convinced in my own mind that that was really true and that it was the right decision to come back and I stand today in 1983 to defend the principles that I came back in 1972 to defend. That, I think, in the circumstances of today, has got to be reflected in a stand with the British Government which says: "Look, you cannot just carry on the way you are going. You cannot simply abuse the support, the loyalty, the Britishness and so on of Gibraltar to get away with murder in Gibraltar which you would not get away with anywhere else". I do not think we can go along with a situation where we come out thanking them for their £9 million aid when we still do not know what we are going to be allowed to spend it on. It is not on. I do not think that that £9 million is something we have got to be grateful for. On the contrary, I think they have got a responsibility for Gibraltar which they are failing to discharge, Mr Speaker. And I think that is a message that is required to come out in this House of Assembly and it is a message that the Chamber of Commerce is looking for, and it is the message that the Trade Union Movement is looking for, and if this House fails to respond to what is the real feeling of the people of Gibraltar outside the House, then the House of Assembly will be effectively unrepresentative in the sentiments it expresses to the British Government. I therefore urge the House to support my amendment.

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

The House recessed at 12.45 p.m.

The House resumed at 3.25 p.m.

MR SPEAKER:

Well, gentlemen, I think the terms of the amendment to the motion as moved by the Honourable Mr Joe Bossano has been circulated. I have proposed the amendment to the main question and I therefore now invite any contributor who wishes to speak on it.

HON CHIEF MINISTER:

Mr Speaker, having initiated the motion before the House, I think I ought to be the first one to speak on the amendment. Whilst it is true that on many occasions we have deleted all the words after "House" and put something else, it has always been of the nature of the business which was before the House. In a busy lunch hour I have not had time, and I am sure that if you have allowed it it is perfectly alright, but I have not had time to look at Erskine May to see whether an amendment to the motion can be so diverse and absolutely different from the subject matter of the motion before the House.

MR SPEAKER:

May I say that it is most certainly in order. It is the parliamentary practice to allow amendments which will give a completely different result to whatever the main motion was and, as a matter of fact, it is the parliamentary practice which is used for the purposes of defeating what was first proposed to be carried.

HON CHIEF MINISTER:

I was not saying that I would have found anything different but I have not even been able to look at it. I know that you can ask what the Prime Minister is doing one afternoon and then try and find out the rest of a number of questions which are not relevant.

MR SPEAKER:

If I may quote from Erskine May at page 377, "Amendment: The general practice with regard to amendments is explained on pages 386-92; here such amendments only will be mentioned as are intended to evade an expression of opinion upon the main question by entirely altering its meaning and object".

HON CHIEF MINISTER:

Well, that is one such amendment which no doubt Erskine May allows but I have still got to put it in its proper context and that is that the purpose of my amendment was to deal with a matter which had been the subject of public controversy and I said that this was the forum for it, and of which I have given notice and on which people can prepare, whereas this amendment which is no doubt one worthy of debate, long debate, on which no doubt there are many views, is sprung on one, not even with a copy of it, before lunchtime, which traverses completely the purpose of the motion. If it was going to be a question of the Dockyard then the Honourable Member would have been fully justified in bringing an amendment so for that reason alone of course

we will vote against the amendment apart from the merits of it. Mr Brocklebank-Fowler who was here recently, said something on television which I think is very true. He found a considerable amount of agreement in substance on many matters but different approaches to it. I think this is a typical one. The point is that we are completely impotent in this respect, in dealing with motions of this nature, because they do not take us anywhere. The other one may be an assertion, whether you agree with it or not, that it is in the interest of the Western Alliance, it is in our interest to have a Naval Base, but this one aims at doing things that would never be possible. Because, in one way or another, and perhaps not as crudely as put in the terms of the amendment, one is doing all the time. Insofar as land is concerned there is no disagreement about that. Members know that we report occasionally what progress or what lack of progress is being made, it is an ongoing problem. And let it not be said that because Gibraltar is a colonial territory as there are many others, either under the old British Empire or in other states, that the people have got perhaps as it is intended here, more rights than the people of the metropolitan territory because it would be very difficult for a Member of Parliament to try and defend in the national context or the national interest in the House of Commons, to value, for example, the contribution made by Chatham to the defence in the past and so on and to seek assurances arising out of that because Chatham is going to be closed, and the contribution made by Chatham to defence over the years which has I think a slightly longer history than our own dockyard has to be measured against the general interests of the community. That a Member of Parliament in England would not stand a chance to try and get evaluated as it is attempted to be done here in order that we put a price on it because it is not, unfortunately or fortunately, however you may look at it, it is not entirely ours. What is ours are basic human rights included in the Constitution, the preamble of the Constitution, the goodwill of the British Government to stand by the people of Gibraltar, these are all positive factors and facts of life without which we would not be able to be the free community that we are. But to go into the merits of determining the opportunity cost to the Western Alliance of the Military Base, "in view of the alleged value of Gibraltar to the Western Alliance, the opportunity cost of the military base should be identified and adequately compensated for". If that does not mean that we should put a price to the value we have as a base, I do not know what it means, if words mean anything. If it means something else, I would be delighted if the Honourable Member would clarify that to me.

HON J BOSSANO:

I thought I had already done so, but if I haven't I will do so. I said in introducing the motion, Mr Speaker, that there was a place in Eastern Beach which provided Gibraltar exclusively with work for 3 Moroccans digging a trench and it is providing Gibraltar with nothing else at all. It has an opportunity cost, opportunity cost in economics means what you are foregoing. That is what opportunity costs means. It means that if you have got today The Mount, The Mount has an opportunity cost which is

not the value to the Western Alliance which may be nil, but the cost to Gibraltar of not having something in its place. That is the opportunity Gibraltar is foregoing.

HON CHIEF MINISTER:

I appreciate the small lecture from the economist on that, but in practical terms, it is exactly the same because that little access to the sea for whatever device, four people dug a trench, that may be of no interest to put in an umbrella and a deck chair whereas something much more important than that elsewhere which is not being so vitally used could be terribly helpful for the economy of Gibraltar so the whole thing is very relative. I am afraid that for that reason I shall deal in the substantive motion with some of the very interesting matters said by the Honourable Member. Let me say that I commend him for the case that he has made from his viewpoint and I can sympathise a lot with the difficulties that he has to contend with as we all have to contend with in different spheres of our public activities, but I think it departs from the main purpose and that is that this House should pronounce publicly on whether, having regard to the basis that if there is a commercial dockyard, if it is decided at the end of the study that there should be a commercial dockyard, that that is not compatible with the holding of a Naval Base in Gibraltar which is the purpose of the motion which was to say, yes, and I think the Leader of the Opposition made a point much more clearly than I have made it in my own contribution originally because I thought, it is one of those things that one takes for granted, it is well worth repeating. In fact, the motion says so but not only, in fact, for the defence of Gibraltar in the sense that the Base is required to defend Gibraltar apart from defending the Western Alliance, but it is of the fact of the presence of a Naval Base which means that any attempt against that Naval Base is not an attempt against Gibraltar itself but against the nation that has the base here with is the mother nation, which is Britain. And that is why we feel that it is so important that a continuing naval presence in Gibraltar, by means of a base, that a naval presence has no other kind of presence but a base. If they have a dockyard, ancillary to it and so on, but the presence of the navy is the base in land, is the base that serves the navy, and the base will continue to serve the navy and the NATO countries and the allies of the British Government. It is the symbolism of that, the fact that an attack on that is an attack not on Gibraltar only but on the Western Alliance, that it is very important that the base should be there. That is what came out of the exchanges that I wanted to make clear and which I was asked, challenged if you want to call it, to go to television where we would have had ten minutes and then we would have Dallas or something else after that and the House is not only the right forum to debate this matter but it is one in which is important that we should exchange views on matters of vital interest to us and even though we may differ, that is of course the purpose of a legislature, the purpose of the House that represents the various sections of the community, to express their views on this matter. For that reason, and that reason alone, apart from the many other matters, I will not go, and I say so with res-

pect, except as it is required for the purpose of the motion, I will not go into the question whether Appledore is better, whether Appledore was appointed previously, or that they had it all in their minds, it was all a big conspiracy beforehand. The Government haven't committed themselves yet, there is so much money to be put into it. However much we want that they might look at it again and so on, but having regard to the stage of the nation in the United Kingdom, having regard to the attitude that the British Government takes when it takes a decision and the extent to which they are prepared to make the people to whom they will be going for votes again in the not too distant future, how they make them suffer be it through the deprivation of National Health Services by maintaining their attitude in respect of wages, be it by holding out on the question of the water workers who never had any industrial problems before and 7 or 8 million people in the United Kingdom are now told to boil their water before they can drink it and others are deprived of water and have got to go, as we used to do in the old days, to the fountain to get water and yet there is very little movement on the part of the Government to change its mind. I think everybody knows that in the United Kingdom, whether you like it or not, you have a Government that when they make up their minds they very, very rarely have U-turns as they were alleged to have been doing. Anybody who deals with the United Kingdom would know that. I am hopeful, as one can always be, about a possible change, it could be a change of strategy or what have you. Certainly in terms of a decision having been taken, to take an attitude, or rather and I think in that respect I think the Honourable Member did concede the point that I had made that it is very difficult to refuse something without knowing what you are refusing. Even though he in his knowledge and prediction tells us that it is going to fail, a priori, I mean there are people spending time and money and visits, train journeys, flying to England and coming back, the Financial Secretary, of other people getting together and looking at things, but it is all useless, if they had only asked Mr Bossano he would have told them that it would fail. But, unfortunately, things are not as simple as that because the people who have got to take the decisions are the people who have got to have the material before them and not either the hunch or the prediction or perhaps the vision that the Honourable Member and Mover of the amendment has. So for that matter I will not deal with the question of the closing of the Dockyard as such because that was not certainly my intention in the motion but only to make clear the need of continuing presence and at the same time thus anticipating the question of the extent to which we also are entitled to help, there is the conversely part of the motion where I say that we expect not only the Ministry of Defence but the British Government itself to have full regard to the matters which are the matters to which the Honourable Member refers but put in a way that is more likely to succeed in Whitehall than the terms of the amendment against which, of course, we will vote.

HON P J ISOLA:

Mr Speaker, we shall vote against the amendment. Let me say, straight away, that the Honourable Mr Bossano has put his case very powerfully there is no question about it, but it boils down

to the issues that I have spoken about when I addressed the House. It boils down to is our relationship with the British Government to be one of bargaining, literally bargaining, how much is this worth to you. We think that this piece which you use for communications you should pay for, we think this and that. If the relationship is going to be how much is something worth to you or this must be worth to you so much, then I think that we have to accept the converse. If the relationship is based purely and simply on business lines, the British Government could legitimately turn round and say, right, let us do it businesswise. Today it is worth this tone, I'll pay you but, equally, tomorrow, if it is not worth to me anything, I have no further responsibility in the matter, you look to somebody else to get you out. And we all know who that somebody else is. I believe that the relationship, and we believe on this side of the House however attractive and however emotionally appealing it might be to people in Gibraltar subject to the influences and the harangues and the speeches of the very eloquent Honourable Member, we believe at the end of the day the relationship between Britain and Gibraltar has to be one of obligations and responsibilities and we have to have them on a higher plane and what this motion really seeks to do, Mr Speaker, the main thrust of the motion is really to say, "Well, look here Britain, you are closing the Naval Dockyard, from now on you pay for everything you have got here and we decide how much you pay and so forth", but it ignores the fact that we just don't have the muscle to uphold what we think they should pay and what we think they should do. It is just not there. The Honourable Mr Bossano, who is such an intelligent man, is just in the moon, he is living in the moon, unless he has some sort of deal going with somebody else who is going to underwrite in the event of something going wrong. Where is the muscle of Gibraltar? What, 20,000 people go out in the street and burn down The Convent and that will make the British Government reverse its decision, that will make the British Government pay for the Base and pay for this and pay for that? The path that the Honourable Mr Bossano is following and the path that this amendment indicates is a very dangerous path for Gibraltar. We are not prepared to embark on that path until we really believe that everything was lost but we do not believe that is the situation, we believe that there is obligation and responsibility around and that is why we come straight out and say: "Right, he says this is the philosophy of my party, our short answer to that is that we reject that philosophy and that path". Mr Speaker, however, let me say one thing. As far as we are concerned, as far as we understand, the Government and certainly it is the position of my party, and as the Honourable Member pointed out we have one member of our party who actively campaigns for this, it is the position of our party that the first preference is that the Naval Dockyard should not close down and, therefore, whilst voting against this amendment, we ourselves will put for the consideration of the House, an amendment appealing to Her Majesty's Government to reconsider its decision. That we are quite happy to do and we are quite happy to put in because we do not want the Honourable Mr Bossano to leave this Chamber and tell people: "There you are, I am the only guy who wanted to keep the Dockyard open. I am the only guy and everybody else are really out to close this and so forth". That is

not the position and I think on a thing as important as the Naval Dockyard, although the opening sentence of the motion of the Government says: "Whilst still opposed to the British Government's decision to close the Naval Dockyard", and all that, should indicate how we all feel in this House, nevertheless, I think it would be advisable and I certainly have no objection to putting in an appeal since the House is discussing it, for Her Majesty's Government to reconsider its decision. Having said that, I would like to add that if the British Government rejects our appeal, one must not then say as unfortunately some people will say, "There you are, they have let you down again". The British Government has put down its reasons for closing the Naval Dockyard, it has put it down in the context of the British Government Defence Review, we have a lot of things to quarrel about but it has put it down, it has given its reasons, we may accept them, we may not accept them. We can have our view but they can also have their view of the matter and although we are appealing for it and we hope the British Government will consider it seriously again, as far as we are concerned we do not take the line that the whole thing is pre-determined and it is all part of one big plot to betray the people of Gibraltar. We do not take that view and as I said when I opened for the Opposition on this, if we believe that sincerely then I think that we would be looking elsewhere, and that is the harsh reality. If you believe that you are going to be betrayed and you are about to be betrayed, sold, anything you like, then my advice is you had better make a deal with the only other guy in the market. That is the reality of the situation as we see it and we do not believe that that is the position and, accordingly, we cannot accept a course of action that commits the people of Gibraltar to a confrontation because that is what it really is, a confrontation with the British Government which, if taken to its conclusion, we will not win and cannot win.

MAJOR F J DELLIPIANI:

Mr Speaker, I am only speaking once and I don't care whether I speak to the amendment to the amendment or the original motion. What I think has been coming across very clearly in Gibraltar, and I do not think it has come across in this House, is that it appears to me that the British Government is doing us a favour in leaving the Naval Base here. Let me make it quite clear that it is not a favour, that it is not for our benefit that they are leaving a Naval Base. They are leaving it for themselves because they want it. Let me make it quite clear to the people of Gibraltar it suits us that it is going to keep 1100 jobs, it suits us fine but they are doing us no favour by leaving the Naval Base. They are doing it because they want it, because it suits them. If it didn't suit them they would close the Naval Base and they would not care two hoots for us. Which brings me to the question of defence which has been mentioned in this House. I have heard it said from UK, from the House of Commons, from everybody, that we have nothing to fear from Spain because Spain has said that they will never take up arms, that Gibraltar is not worth a confrontation, so we have nothing to fear from Spain. We must not bother about Spain, Spain will do nothing to us. So, therefore, the only thing we have to worry about is the defence

of Gibraltar because Gibraltar has a Naval Base. I think there is some logic there. We only have to worry about the defence of Gibraltar because there is a Naval Base there, we do not have to worry about the Spaniards because they have said, and they keep their word, they kept their word in April, 1980, they kept it the second time and the third time, they always keep their word, so we have got to accept their word, the British Government has already accepted their word that they will never use force of arms to recapture Gibraltar. So therefore we are concerned then with the defence of the Base which it so happens the British Government wants to keep here and it suits us because it is going to keep going 1100 jobs. Otherwise we would lose that, too, and I am sure that the British Government if it suits their Defence White Paper, would not hesitate in closing down the Naval Base if it suited them, but it also suits us to keep that Naval Base. But I think that to have a Naval Base here means that that Naval Base poses a greater threat to Gibraltar. I don't see and I am not satisfied that that threat to Gibraltar which that Naval Base poses certainly from the Eastern countries, we are not properly defended. Gibraltar could be walked over right now and it would be far more difficult than the Falklands to recapture because we are here, they could move out into the hills and everything but we are here and Gibraltar is lacking in defence and it does not take the NATO Commander from Southern Command to come and say it. I have been saying it since the early 1960's. We have no guns which are radar controlled in Gibraltar, most of the radar that we have in Gibraltar is geared to air traffic control, it is not geared to early warning. Just because they brought in a Troop of blowpipes, and they have upgraded the 105 to the light gun 105, it does not mean that we are safe already. If Gibraltar has a greater danger because the Naval Base is going to remain here, then it is up to the British Government to ensure that the Naval Base and Gibraltar is better defended than it is now and she has to provide more troops and more equipment to give us that defence. The Hon Mr Bossano brought up a very good point on the question of the American equipment at Eastern Beach which as we know is for the detection of, well, I know, you might not know, Sir, but I know. Well, I won't say it in the House.

MR SPEAKER:

Let us not get too involved on the implications of the defence of Gibraltar.

HON MAJOR F J DELLIPIANI:

They required that area and because of that area you cannot do anything else in that area. But now they have put an advertisement inviting prospective tenderers for an earth satellite station. It does not have to go to the Development and Planning Commission, because they are the lords and masters, so they can put it anywhere. They could put the earth satellite if they wanted probably in Main Street. And then, probably, we ourselves would say: "Ah, but we want this piece of land for ourselves because we want to develop this land, we want to do it here!" And what is the answer: "Oh, yes, that is a good scheme,

but we have to put it somewhere else so you have to pay for the reprovisioning. We are not consulted as to whether they put the earth satellite, where they put this, where they put that. This is the problem with Gibraltar, that we have no say in how we can use our land, this is the problem. Look at the No 4 Dock, how long has it been out of use.

MR SPEAKER:

With due respect, we are now debating an amendment to the motion.

HON MAJOR F J DELLIPIANI:

I said I would talk on the compatibility of the Naval Base and that still forms part of the Naval Base. No. 4 Dock has been closed for donkey's years and now it is used as a swimming pool for the privileged few when it could probably be brought into commercialisation in a small scale for small yachts and it could be providing work for the Gibraltarians. This is what I am saying, that OK, the Naval Base is required in Gibraltar because it suits them, it suits me too because I am Western orientated, I believe that there is no good Red except a dead one, except for a few exceptions, but what I am trying to say, Sir, is that we are willing to cooperate with the British Government but the British Government does not cooperate with us because they still retain many pieces of land for the privileged few and one of the cases that come to mind is The Mount, that huge area of absolutely marvellous land for one Admiral and his family. To me, it is incredible. I am sure that the Admiral in charge of Portsmouth or Devonport has not got a house or a garden half that size. But we have this colonial attitude in Gibraltar and these are the things that hurt me as a Gibraltarian. Because we are not making the full use of the only asset Gibraltar has which is the land. This is the problem and let us make it clear to the British Government that it is not a favour they are doing us, it is a favour they are doing to themselves because the same way that they treated us so callously in announcing the closure of the Dockyard, they would be just as callous in closing the Naval Base.

HON MAJOR R J PELIZA:

Mr Speaker, I think that no one doubts how determined I am to try and keep the Dockyard in its place and I would do everything possible to try and retain it there. But it is very difficult with the wording that my Honourable Friend Joe Bossano has used, both in the amendment and in some of the things that he said, to go with him in this respect. I find the word "totally" at the beginning of the amendment difficult. What does totally really mean? Are we going to break with the British Government over the dockyard? Is that in the interest of Gibraltar to do? In any case to what extent isn't one part of the same entity of which the British Government is. I feel I am a Gibraltarian British Citizen of which my mother country is Britain and of which Gibraltar is part of that entity. Therefore, Mr Speaker, I am not here to bargain the price of the Base at all. As far as I am concerned the Base is mine just as much as it is British and of the people of Britain. I know that this is rather difficult for some people to understand but I feel that this is the best way of tackling the analysis of this motion. It has got to be subjective. It is subjective as far as I am concerned on my

patriotism as a Gibraltarian British and as a British Citizen who wishes Gibraltar to remain British. To me patriotism is a mixture of emotions, interests, moral values and realism. And when you put all those together, to me that is patriotism. And if we look at our situation in Gibraltar in that light I do not think we can go very far wrong, Mr Speaker, and it is with this attitude that I think that Gibraltar as a whole should approach this problem. We are, as it were, in a tug-of-war in which not just us are pulling one way but possibly a number of departments even of the British Government are pulling their own way. You may find the Navy who want to spend £10 million. In the eyes of that particular, shall we say, civil servant, who is being told to save as much money as possible, he says: "I have got to take away £10 million from here because I can put it in the kitty and use it for something else. The Foreign Office says: "Well, if you take that away I am going to have a problem with Spain because they will not open the frontier because they think that you are going to let them down so he says: "We have to find something in its place, so let us have commercialisation". And so on, and so on, Mr Speaker, and we are also an interested party and also we have the Government itself. Not all the Members of the Government perhaps are even in agreement as we all know with the present defence policy. Even inside the Government itself, even in the Cabinet itself there might be members of the Cabinet who do not agree with the present defence policy and therefore would like to see a bigger surface Navy and would probably like to see the Dockyard remaining open. As we know, Keith Speed wanted it and in fact he resigned over that. I have letters here from Members of Parliament who say so themselves, that they would like to see the dockyard kept going. It is not as simple as it looks, it is very difficult. And in that respect, Mr Speaker, looking at it in that light, that is the way that I myself feel I have got to analyse this and I am sure that Members of my party analyse it in that light and I have a feeling that also the Government itself sees it in that light. I grant one thing to the Government. They are in the most difficult position of the lot and although I pressurise them I know perfectly well that at the end of the day they carry the can. And if things go very wrong in Gibraltar and there is serious unemployment and the whole thing becomes chaotic, it is the Government that is going to have the finger pointed at them. So whilst I insist and try to get the Government to do something about keeping the Dockyard open, I realise that it is in a very difficult position indeed and I think it is only fair that we should see it in that light. If we look then, Mr Speaker, at this amendment, it says: "is totally opposed to the closure of the Naval Dockyard, considers this to be against the best interests of the United Kingdom". Well, I doubt whether we can sit in judgement as to what is in the best interests of the United Kingdom. We just cannot do that. We may make a suggestion, we may think so, I say so in many of my letters I say: "You will be sorry the day you let that dockyard go. You may need something else and you may not be able to use it". But I cannot tell the British Government what is in their best interests. I can only try and do this through the Members of Parliament some of whom agree that it is in the best interests, some of whom do not agree that it is in the best interests to keep the Dockyard open. But if you do go

on a little further and say "in the best interests of the United Kingdom as well as of Gibraltar", then, yes, that little bit I would agree with. That it is in the best interest of Gibraltar, with that I think we all agree. Then it says: "appeals to Her Majesty's Government to reconsider its decision". I think that is excellent and I am sure that Mr Bossano would support that little bit even if we do not agree with the rest of his amendment, he will be able to go along with that. I am very glad to have heard the Leader of the Opposition say that we hope to be able to introduce a small amendment to this effect in the main motion, Mr Speaker, and of course I am only speaking on the amendment, I would like to say something about that subsequently on the main motion. The amendment goes on to say and this is perhaps where one really just cannot go with it. "Gibraltar's economy cannot be made visible through a diversification programme on the basis that the resources made available are determined by the military establishments". I am convinced that if the whole military establishment were to leave tomorrow we could not make this place a visible place. I am convinced that that could not be possible for as long as we have next door to us a country which is dead against allowing us to survive. So that does not make sense at all. It is just not possible. They are determined, as we will know through the siege, through the way that they have opened the frontier now, through our fears that they would compete with a commercialised dockyard, all those fears are there. How can we for one moment believe that if we were to disagree with the military establishment here in Gibraltar and send them packing the next day we would be able to get together and really build a wonderful prosperous little community in Gibraltar? I do not believe that unless there is a goldmine hidden somewhere under the Rock of which I used to speak about but of course, as you know, my goldmine was the Dockyard and still is the Dockyard, that was my goldmine. Not only the Dockyard, as you all know, in fact, the goldmine to me was the defence industry and that is the biggest industry that we have here and I have always felt very proud of participating and helping in some way in this industry because this industry, happily for us, is the one that has maintained democracy and freedom in the world and to that extent Gibraltar has been contributing and I hope that we can carry on contributing. And this is why when they tell me that perhaps we should have a civilian Governor instead of a military Governor, I say no.

MR SPEAKER:

No, no, let us not go into that now.

HON MAJOR R J PELIZA:

I say that to emphasise, Mr Speaker, the importance that I attach to the military establishments in Gibraltar whether they are the Naval Base, whether they are the Regiment which is defending us, whether it is the RAF in North Front, whoever they may be. I think that is vital to us for the sake of being able to exist, for the sake of our own defence, for the sake of the defence of the values and principles that we in the Western World I think very much appreciate and like to be able to enjoy for

evermore. Therefore, Mr Speaker, how can I go on then and carry on talking about identifying what compensation we should have? That is mercenary, Mr Speaker, that is not patriotism. If we are going to start talking about how much we are going to ask for the Base and that, whether Mr Bossano has said it or not, is the impression that this gives. Any person who reads this will get that impression, that we are now trying to get a good return for allowing Britain to use the Base. That is not the attitude, as I said from the beginning. It cannot be, it must not be, it hasn't even got to be thought of. We are in the same family and this is purely a little internal matter of interest that one is pulling one way and the other is pulling the other. Of course, we have a lot at stake I fully agree on that and therefore we have got to make it known how much is at stake because it is very possible that the people who really have to make the final decision are not fully aware. I talked to many Members of Parliament who are 100% behind us and they say it is alright because we are going to get £45 million to replace the Dockyard. It takes about an hour to explain to them all the problems that arise. They do not realise it. They say: "But you are going to be better off than you are now". Some of them believe it. So it is most essential that we do an exercise of which I will speak about later. I hope that I have made my position quite clear. I am one of those that are determined to see that the Dockyard remains open. I will do everything possible, democratically, to try and achieve that. I can see the point of view of Mr Bossano. Sometimes when you get to the point of desperation you act in a way that is not in your best interest. I have a feeling that that is perhaps the position that some people are getting into and that is a very bad position to get into because you do things in the end that you regret. Cool down, think practically, unemotionally, and then, I think, decide. I hope that this is a good exercise that we are carrying out today. Obviously, I agree with the Chief Minister that it is much better than a debate on television, at least more of us have been able to participate and I do hope that at the end of the day, as usual, even Mr Joe Bossano will be able to vote with a consensus motion which will carry the full weight of all the representative bodies of Gibraltar.

MR SPEAKER:

I will now call on the Hon Mr Bossano to reply to the amendment.

HON J BOSSANO:

Mr Speaker, I was at pains to make the position of the GSLP explicitly clear and I said that our analysis of the situation leads us to the conclusion that this is the kind of leadership that Gibraltar requires and is looking for, it is a leadership that we will provide if that is what the people want, I have to tell the House and I have to tell the Honourable and Gallant Member who has spoken last that I am afraid that it is not possible to have a consensus of this. Either we carry on the way we have been doing up till now, which in my judgement will lead us to disaster, and I do not need to wait until Appledore reports on the 30th of April to know that, and I think that anybody who does their homework will come to the same conclusion. It may be that

the conclusion is a very unpalatable one and that one prefers to stick one's head in the sand in the hope that somehow some miracle will happen to bail us out. There will be no miracle. I would like to say that I am grateful to the Honourable and Gallant Member, Major Dellipiani, for what he had to say. No doubt he will vote the way his party wants him to vote but I think when he was speaking he was speaking as a Gibraltarian rather than as a politician and he was reflecting a sentiment that I hear daily from hundreds of people in the streets in Gibraltar, that we are being taken for a ride. And if we are being taken for a ride, Mr Speaker, I will have no part of it. If I am mistaken them, the end result will show it and I will have been proved wrong. If I am not mistaken I will have been right and it may be too late to regret the situation. But the policy that I am advocating in this amendment which the House is going to reject, is the only alternative open to Gibraltar. And if the Honourable Member, Major Peliza, says that even if we had the whole of Gibraltar at our disposal we could not make it viable, then by definition we do not have to carry out any studies, or bring any experts, or get any consultants to find an alternative economic study that will make Gibraltar viable because if the whole of it cannot be viable, a part of it cannot be viable, by definition, Mr Speaker, because, in fact, if we have got to plan an alternative economy for Gibraltar purely piecemeal on what is available from time to time, that, of necessity, must be an inferior strategy than one where we have at our disposal the whole of Gibraltar, and we quantify what each part of it was worth and where Gibraltar's economy was adequately compensated for foregoing in the interest of the Western Alliance, whatever it went without. The opportunity cost that I am talking about in the motion must be obvious to anybody that understands the subject matter which has got to be decided. We are subsidising the Western Alliance and not the other way round because, in fact, we are not the owners of our land. The right to our land philosophy seems to be as weak as the philosophy of opposition in the original motion. I hope the Honourable Member when he speaks finally on the main motion, will in fact answer one point that I raised in our opposition to the closure as to whether following what he had to say 12 months ago, that it was maybe, whether it is still maybe, or whether he has now accepted that the answer now is finally no and that nothing can be gained by going back. Because, on the one hand, the amendment of the Honourable and Learned Member, the Leader of the Opposition, that we should appeal must of necessity require that we should think that there is still a chance of the matter being reconsidered. We have had this business before, I think when Mr Restano introduced the Opposition's views in the last budget, he was talking about when the final decision comes. Well, has the time of decision come or not? Because in Parliament in UK they are saying it is the final decision. Because in letters written by Mrs Thatcher she says that it is the final decision. And, certainly, from the way the implementation programme is being handled, because that is what is taking place now, there are a series of steps, the assets are being identified, there are dates for agreements to be signed, for tenders to be sent out, covering the whole of this year about a decision that has not been taken. Given that background, when I am saying that I am totally opposed,

I am saying that I reject that. And I have to distinguish between what I mean by opposed and what the original motion means by opposed, and we do not mean the same thing. You cannot be opposed to something and at the same time be involved in planning the implementation of the thing you are opposed to. This is why I left the Consultative Committee, because the Consultative Committee was not being consulted about anything. It was being dragged into something, Mr Speaker, and I will not be dragged, and I am fairly confident that nor will the people of Gibraltar. Whatever appeal this House may make I think they are making a serious mistake in understanding the mood of the people of Gibraltar. The GSLP will have to take its defeat on this motion but it will continue to campaign on these lines and then the electorate will have a chance to decide how we handle our future.

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

The Hon J Bossano

The following Hon Members voted against:

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 A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon R J Wallace

The following Hon Member was absent from the Chamber:

The Hon D Hull

The amendment was accordingly defeated.

MR SPEAKER:

We are now back to the original motion, as amended by the Hon P J Isola. Any Hon Member who has not spoken to the main motion is now free to do so.

HON A T LODDO:

Mr Speaker, in rising to speak on the motion, I will try first of all to be brief, secondly, not to stray from the gist. I

would like to remind the House of a number of very hard and inescapable facts Mr Speaker. The first one is that Gibraltar is a fortress and the reason for the existence of the people of Gibraltar today, and in years gone by, both under Spanish occupation or Moorish occupation, has been precisely because Gibraltar is a fortress. We have heard over the last few years the phrases Dockyard economy and fortress mentality invariably spoken in a derogatory manner. Well, Mr Speaker, I do not feel that there is anything to be ashamed of in having a dockyard economy if you live in a fortress, nor having a fortress mentality if you live in a garrison town. Garrison towns and fortresses have been with us since the time of the Romans, if not before, and it is also another inescapable fact that because of this the base of our economy has had to be one of defence expenditure. And because of this even if we do decide to diversify our economy, which we should do by all means, we must never lose sight of the fact that whether we like it or not, because of our limitations in size and numbers, the defence spending must always present a large portion of our economic base. We should also remember that defence needs will always come first. I am sure they came first in the time of the Spanish occupation as it did in the time of Gibel Traik. Having accepted these things, I don't think anybody can dispute them, we must also accept that as times change so do defence needs. And it is the changes in defence needs with the subsequent cuts in defence expenditure that are ultimately responsible for the proposed closure of the Dockyard. I do not believe that there are any sinister motives behind the closure of the Dockyard. I cannot believe that in a machiavellian plot to drive us into the arms of Spain, Britain is closing Chatham and running down Portsmouth. It might be a fortuitous coincidence for some people, but I do not believe that this is the objective of the British Government. Mr Speaker, I believe that it is also a hard fact that the only way that the closure of the dockyard will be prevented is if we can get Her Majesty's Government in UK to change its defence strategy. To think that we are going to reverse a decision by merely saying: "No, the dockyard will not close" is to adopt the attitude of King Canute. Mr Speaker, I know that some people say that one of the reasons why the Dockyard will have to close is because it is an economic issue, that is rubbish. A Naval Dockyard has never been economically viable. A Naval Dockyard, Mr Speaker, whether here or in England or anywhere else in the world, a Naval Dockyard is an insurance policy for which the country must be prepared to pay. But equally, if a country decides to change its insurance policy then that is it. We must face the fact that the intended closure of the Dockyard is directly related to the defence cuts and they need different thinking in the defence strategy of the United Kingdom. I admit that Gibraltar is completely different to the United Kingdom. If we were to equate the closing of the Gibraltar Dockyard with anything of equal significance for England, we should be saying: "Yes, the closure of the Dockyard in Gibraltar can be equated with the closure of all the Dockyards in England, half the steel works, three quarters of the mines, because as I said at the beginning, our economy is a defence based economy. Now we come to the hardest inescapable fact and that is that we have a big problem and a problem which we have not created but which

has been created for us. We faced a similar problem 14 years ago, again, a problem which we did not create, the closure of the frontier, withdrawal of labour and all the other things. On that occasion the British Government said that they would stand by us, support and sustain us and see that we did not go under. And they did, and they kept their word. And another hard fact is that at the end of the day the ultimate responsibility for Gibraltar's economic and political stability, rests with the United Kingdom. The political stability is directly related to economic stability. It is a well known fact that when the economic structure breaks down you have political unrest. Well, the British Government seems to think that the alternative to the Dockyard is commercialisation. It has not been proved to my satisfaction that that is a viable alternative. I do not think it ever will be proved because we are talking of commercialisation, we are talking of a business venture and in every business venture there is an amount of speculation and an amount of risk. You can have a calculated risk but it is a risk none the less so it will never be proved. Similarly, I will never be able to prove and no one will ever be able to prove by talking about it that it will not be economically viable. But from all the indications one can safely assume that it will not be economically viable. We see what is happening all over the world as far as shipping is concerned. We see what is happening in Spain, in Cadiz, to be more precise where the labour force in the dockyard there has been cut, those who remain in employment have accepted a reduction in wages, the dockyard is being heavily subsidised by the Spanish Government, although you are charged for docking and undocking the firm is not charged whilst the ship is in dock and still they cannot make anything. All these, surely, are pointers that commercialisation will not work. However, I would say that as the onus is on the British Government, we should try and get a commitment from the British Government that if at the end of the 5 years if we play our part through no fault of our own the dockyard is not commercially viable, we should get an undertaking from the British Government that it will continue to put work our way because the way things stand there is nothing at the end of the day to stop Appledore from washing its hands and saying: "Well, that is it, I cannot do any more for you. You are on your own". That, I think, is something which we could ask for. I think most Members of the House will remember the fiasco of the shipping and canning experiment carried out in Gibraltar, where we set up a fishing industry, trapping fish on the eastern side, and canning it on the western side in a factory and when the Spanish Government realised how successful the business was, what did they do? They set up their own fishing traps, three or four miles down the coast and another two miles out. It meant that they collected all the fish. I know I am digressing, Mr Speaker, but it is a lesson that should not be lost. As I said earlier, although we can talk of diversification, for me diversification means more than just Appledore otherwise we are taking all the eggs from one basket and putting them in another. I believe that consideration should be given to other industries in the Dockyard. But, Mr Speaker, as the Honourable and Gallant Major Peliza said, at the end of the day, in the final analysis, the Government is left holding the baby. It is an invidious position to be in but that is why we have a Govern-

ment. At the same time they have been playing the cards very close to their chest. So, Mr Speaker, before I sit down I would like to move the amendment which was mentioned by the Leader of the Opposition earlier on, and I will read it. The amendment is that the motion as amended, be further amended by renumbering paragraphs (1), (2), (3) and (4) to (2), (3), (4) and (5) and inserting a new paragraph, to be numbered (1), and to read as follows: "(1) Appeals to Her Majesty's Government to reconsider its decision to close the Naval Dockyard".

Mr Speaker then proposed the question in the terms of the Honourable A T Loddó's amendment.

HON J BOSSANO:

Mr Speaker, let me say that I have not heard one single word from the Hon Member as to why we should support the amendment and I have heard a number of arguments as to why we should not. Because one of the things that he said was that there was no way we could reverse the decision without getting a reverse of the defence policy in the UK and the amendment says that we should appeal for the matter to be reconsidered which he has just told us we are doomed to failure on.

HON A T LODDO:

Does the Honourable Member then suggest that we do away with that?

MR SPEAKER:

No, let us not have a debate within a debate.

HON J BOSSANO:

I can hardly say he should not do that since that is in my original amendment which has already been defeated. But, of course, in my amendment it is part of a philosophy and the Honourable Member has just rejected that philosophy. He has just told us that we have to understand that there is a change in defence strategy, that the cuts come not through any plot but because of the changes in defence strategy and unless the British Government changes its defence strategy, that is unless there is a change of Government, the Dockyard will not close. In the context of what he has said in support of the amendment, one could interpret that as meaning that he is appealing for us to get a change of Government in UK, which I support entirely. I welcome the fact that the amendment is going to be put because it enables me at least to support part of the motion. I disagree entirely with the original motion brought to the House for the reasons that I have explained, Mr Speaker, I think it is a matter of approach as to how the problem needs to be tackled. I have heard nothing to make me change my mind but I will support this amendment.

HON MAJOR R J FELIZA:

Mr Speaker, I think my Honourable Friend Mr Bossano has oversimplified the position by saying that the British Government has changed the defence policy, therefore there is no possibility of ...

MR SPEAKER:

Mr Bossano has not said that.

HON MAJOR R J FELIZA:

What I am trying to say is that really that is an over simplification in that, notwithstanding there has been a change in defence policy, within that change it is possible to find adjustment. In fact, if I see it rightly, one of the suggestions made by the Trades Council is something like that whereby they want to phase in commercial work into the dockyard. That is one thing that in the light of the amendment and the appeal to the Government, can be considered, I would have thought. I hope that my Honourable Friend is supporting this wholeheartedly.

HON P J ISOLA:

Unfortunately, I was not able to put the amendment myself because I had already put in an amendment which the Honourable Member has already supported. There are people who feel, like my Honourable and Gallant Friend Major Peliza, who seems to be an optimist in these matters, who feels something can be done and I am sure he is going to talk about it. There are other Members who feel the whole process of Government decision has gone so far in the United Kingdom that there is not much chance of getting it reversed and I think my Honourable Friend, Mr Loddó, holds that view and I think others will hold that view. The reason why we move the amendment is to show and identify ourselves with the feeling and the aspirations of people that the decision should be reversed. Our first preference is for a Naval Dockyard, and we move the amendment in the nature of an appeal to the British Government. As I said before, if the British Government reject it to us it does not mean and will not mean the British Government is selling Gibraltar down the river because they have committed themselves to discharge their obligations as far as Gibraltar is concerned and we look forward to the discharge of those obligations.

HON M K FEATHERSTONE:

Mr Speaker, speaking purely on the amendment, I think the British Government has been approached on many occasions from Gibraltar on the question of not closing the Naval Dockyard and we have never been very successful. However, I do not think any great harm is going to be done to go once more and try once again. Sometimes if you knock at a door twenty times and it is not opened, it is opened on the twenty first time. And so we are quite happy to support this amendment. I am willing to do it myself but perhaps the Honourable Mover would like to do it, on

a question of semantics, it does seem that the last few words "to close the Naval Dockyard" are unnecessary because it is then going to read: "That this House, whilst still opposed to the British Government's decision to close the Naval Dockyard, appeals to Her Majesty's Government to reconsider its decision to close the Naval Dockyard". Perhaps he would like to withdraw the last few words and just leave it "Appeals to Her Majesty's Government to reconsider its decision".

MR SPEAKER:

Well, I will put the question, because I do not think that there is any need for debate on this one, as moved by the Honourable Mr Featherstone.

Mr Speaker then put the question which was resolved in the affirmative and the Hon A T Lodd's amendment, as amended, was accordingly passed.

MR SPEAKER:

Anyone who has not spoken to the original motion is free to do so.

HON M K FEATHERSTONE:

Sir, I haven't very much to say. Obviously, as I have just said, we are not going to do any harm by knocking at the door once more. I do think that we must not have our hopes too high of a positive result. I think the British Government has gone very far down the road, especially with its closure of Chatham and its cutting down very drastically at Portsmouth, for it to reverse its decision on Gibraltar. However, we can of course live in hopes and if we were successful in this one more attempt, then I am sure everybody in Gibraltar will be overjoyed. With regard to the full motion as proposed by the Honourable Chief Minister, obviously it is an absolute essential and I think it is realised by the British Government, that the Naval Base in Gibraltar which must be retained and we should press that it should be retained at the highest possible level. It is only, I think, common sense to suggest to the British Government that should we go commercialised they should use our commercial base as much as possible for every type of repair that they can possibly give. Not only so that they have a commercial yard which is capable of undertaking Naval work at any time, but so that western defence does have some other area where its ships can be adequately repaired without having to go all the way back to the United Kingdom. I would like to take issue one little bit with the Honourable Mr Bossano who categorically states that commercialisation is going to fail. I think this is a pessimistic viewpoint. I think it is a viewpoint which is not going to do any good if it gets around amongst the ordinary man in the street in Gibraltar, why go into commercialisation if it is going to fail, you are going to get an attitude, perhaps amongst the actual workers there, that they are going into something that is not even worth consi-

dering. Singapore was faced with a similar situation and they rose to the occasion and the result I think has been that the Dockyard, on a commercial basis in Singapore, is one of the best in the whole of the eastern hemisphere. I think, also, Messrs Appledore took over a yard in Greece which was running at a loss and after 2 or 3 years converted the loss into a not unreasonable profit margin. It would seem that if commercialisation is going to fail, then it can only be based on three reasons. First, that the management is no good and it does seem that Appledore as managers have been successful elsewhere and there is no reason why they should not be here. Secondly, that the workers fail and I am sure the workers of Gibraltar are not going to fail, they can rise to the occasion they have done so before, and if it is something that they fully appreciate, their livelihood and their future and the future of their families depend upon, they will rise to the occasion, they have the skills, they have the will to work, they can make a great success of it. The last one of course is that no ships ...

HON J BOSSANO:

If the Hon Member will give way. One has only got a chance to speak once on this motion. At first we were told that we were not debating commercialisation.

MR SPEAKER:

I think that is not completely correct. I think you have had the chance to speak three times.

HON J BOSSANO:

On amendments, yes. I do not mind if he puts an amendment which will enable me to answer all the points that he is making about the workers, I am quite happy to take him up but if he is going to make assertions about the workers' willingness to work and Singapore and Neorion, which nobody has mentioned before, I can assure him I can refute a lot of the facts that he is quoting.

MR SPEAKER:

Well, those are the rules of debate in any event.

HON M K FEATHERSTONE:

The other thing, of course, Sir, is that no ship should come in. Well, that of course is to some extent the risk that one takes but advice is given to us that Gibraltar is on a shipping route, it is not unreasonable that many ships would come in here for refits where they can save time on their normal journeys rather than if they are based in somewhere like Liverpool and they have to spend 2 days going round to Tyneside, and 2 days back which are wasted time, and this has been put to me by Captains of ships that it is the waste of time going to actual repair or refit yards which makes the whole thing commercially very expensive. I feel sure that we do have a reasonable opportunity to get the ships. I know shipping today is depressed but this is .

a situation which has its ups and its downs. If we have our commercial yard, if we can convince the British Government to assist us with naval work, to assist us financially by subvention if necessary over the first 5 years, or even longer should it be so required, then when the shipping situation improves as it will because the recessions alternate over perhaps longish cycles, ten or fifteen years, but it should come back, perhaps in eight or ten years time, we will be very favourably placed. The last point, I think, which is a very essential one has already been mentioned but I would stress it once again, commercialisation should be only one of the items that we ask the British Government to help us in insofar as diversifying our economy. If the Government here, as I am sure it will, looks into other possible schemes and puts them forward to the British Government, let us hope that we get the most sympathetic reaction from them and should this require areas in the dockyard which are not needed for commercialisation and can be given up by the naval area as not really necessary and useful to the viability of Gibraltar as a whole, then let them treat it very sympathetically. I think the motion deserves our fullest support.

HON MAJOR R J PELIZA:

Mr Speaker, I will speak on the general motion.

MR SPEAKER:

May I remind you that you must not repeat yourself. You have already spoken twice, provided you have something new to add, by all means.

HON MAJOR R J PELIZA:

Yes, certainly Mr Speaker. In fact, there are many things that I was going to say but I think that we have flogged the horse sufficiently.

MR SPEAKER:

I have no doubt about that whatsoever.

HON MAJOR R J PELIZA:

It is not my intention to drag it on so I will try and come down to what I think are the bare essentials. I agree with the last speaker that one must not go with the impression that it is going to be easy, that we are going to win this battle or anything like that. It is going to be very difficult and perhaps in the end we might come back with a compromise or whatever it might be. But if we are going to get anything out of this we certainly must be hopeful of succeeding otherwise we might as well throw the towel in now. I certainly am hopeful of succeeding and I do hope that the Government will be hopeful of succeeding and certainly I know my Friends are hopeful of succeeding and that is the spirit in which we should go forward. I will say later how I think we should try and get this appeal

done. I do not think it is just a question of writing a letter or anything like that. There is a lot of spadework to be done if at the end of the day we are going to be successful but I will come to that at the end, Mr Speaker. Like the last speaker has said before, I have no faith in a commercial project in Gibraltar. No faith at all. Looking at the state of world shipping, the facts and figures that we see in Europe and all over the world, I think we are starting a business which will see bankruptcies all around us. As a businessman, quite honestly, I would not myself put a penny into that business nor do the consultants nor does Appledore. It is very interesting because I had a letter from the Minister saying that they were being sensible because they were going to put the money soon after they started and I said not only are they sensible, but they are clever because they are going to get money out of it whatever happens. They are getting a fee, they are getting commission so, obviously, if I were one of them I would recommend the project 200%. But you ask the same firm to put some money into it and they have second thoughts. So for all those reasons I am not convinced that commercialisation is the answer and if it has to be done it has to be done because we have no other alternative. This is one of the messages that we have got to convey because the impression in England is now, and I can assure you of that, that we are going to get so much money in other respects that we are not going to feel the pinch of the dockyard. Therefore, for me to be convinced, it is a question of looking at the reports. The reports are not available. I have urged the Government to make as many reports as possible available so that people can speak with knowledge of what they are saying. At the moment if we happen to be wrong it is a shame because we are wasting a lot of time. If those reports prove conclusively that commercialisation is a success we are all wasting our time. I doubt very much whether they paint that picture because obviously both the navy is interested, the MOD is interested, Her Majesty's Government is interested, the Government of Gibraltar is interested. So if there was anything in those reports that would make it clear that it was going to be a success, those would have been published. And if they have not been published, in my view take away the sensitivity of the report, blank that off, bring out the good points, let us have them and we would all agree, we would all be happy and singing and enjoying ourselves on the great future that we have with commercialisation. But the fact that those reports are not made public or those parts of the report are not made public, in themselves is a sign that they are not in any way conducive to a prosperous Gibraltar in the future. Let us forget the economic side, what the economists can do with figures, and believe me they can do a lot of things, the economists. Mr Joe Bossano knows this and he uses them now and again to support his ideas. We all know that. The Financial Secretary does it some of the time, too. And so we go round the table, everybody using the figures to support his case. I have no doubt that that sort of thing is going on now with all the recommendations. But, Mr Speaker, take away the figures now. The actual facts. The situation in Gibraltar. Do we honestly believe, and I am not going to repeat it, that a nation that has been determined for 14 years to sink us as a community is going now to help us in any way in carrying on with a new

project which they can now interfere with? In the past, or even today, the virtue of the dockyard is that it is our economic base, the base from which we are getting money from outside into the community, and it is invulnerable to Spanish interference. But we are going to give that away, and instead we are going to put in its place something which the Spaniards, the Spanish Government, can interfere with. So we become immediately vulnerable. When we were invulnerable before now we are more vulnerable. Mr Speaker, that is above all the figures, whatever they say about the figures, now we are not any longer immune, we are subject to interference. Mr Speaker, we had the speaker here before saying that in Cadiz they had a ship repair yard, which has no business at the moment, or very little and this proves the point that there can be competition from the neighbourhood to an extent that we shall not be viable or if we are going to be viable we are going to be working for a handful of rice. That is not the kind of economy that I am sure the British Government would like to see in Gibraltar. It is not possible that they expect that sort of thing to go on here. That is what I mean by vulnerable. That is the way that I think, Mr Speaker, we can be subjected to a lot of pressure and that is why I say it is no longer just the economic report or the feasibility or viability and all the rest of it, it is a fact that there will be political and economic pressures put on us, and we think we want to avoid that situation if possible. And this is why, in fact, Mr Speaker, if we have to choose something to replace it, it has got to be something that can be assured Gibraltar can exist on without outside interference. I prefer, certainly, if it has to be replaced by something, by something which is diversified, and if one goes under the other will float because in the present world there are times when there are certain industries which are on the rise and others which are on the way down and by not having all the eggs in one basket, Mr Speaker, we have a better chance of survival and in that respect Mr Speaker, I think that it is not advisable. Furthermore if we have to have a commercial dockyard, why should not the British Government themselves run it? Why pass it on to the Gibraltar Government? And so, they become responsible to see that it works. I wonder what they would say to that? Would they then see the Appledore recommendation in a different light? I wonder if the Chief Minister could suggest it to somebody. What would happen then? It has been suggested, has it? Well, fine, this is it, and what is the reply? No, so it is obvious, Mr Speaker, I am just trying to make the point, that it is not as viable as they say. Or are they prepared, not just for the first 5 years, but as time goes by, to counter any subsidy that Spain may be giving to the nearby shipyards. Will they be prepared to carry on indefinitely with the support and sustain policy, regardless of whether the frontier opens or not? Because as far as I know the policy of supporting the sustaining Gibraltar comes to an end the moment the restrictions are up. And we all know that if the restrictions are up at the same time as the dockyard closes, we find ourselves in the most difficult situation of the lot. The Chief Minister said, and it is true, that the closure of the dockyard was potentially catastrophic, that is what he told the Governor when he arrived here, potentially catastrophic, those were the words of the Chief Minister. And in the New

Year's message he said it was a blow for Gibraltar. This we all know, there is no question about it. What we have to do, therefore, and now I come to what I said I would say before, is how do we bring this message to people in Parliament who I know are not fully informed of the situation. It is no use making an appeal to the Government without preparing the ground beforehand. We have to build up support in both Houses of Parliament and when we know that we have that support, then we make our appeal. I think that the British Government will find it very difficult to reject the appeal out of hand. But this is where I think we need coordination and we need a united effort from all the Members of this House and all the bodies in Gibraltar. It needs coordination. As far as I am concerned, the little I can do at the other end I will do, as you can well imagine, wholeheartedly. If we get together, I am convinced that we shall have lots and lots of Members of Parliament both inside the group and outside the Gibraltar group and Members of the House of Lords, who will rally to our cause. I have letters here, I am not going to read them, Mr Speaker, but any Member of the House of Assembly is welcome to see them. They will see the support there is. Mr Speaker, whilst there is life, there is hope, I think the dockyard still has life so let us try and make sure that we can keep it going. And if at the end we can't, through our efforts we shall be able to get a better deal than if we don't do enough. I think that whatever happens, if we make this appeal, at the end of the day we shall get more than if you just sit down at the table, as we are now, and more or less hope for the best in the negotiations going round the table.

HON A J CANEPA:

Mr Speaker, I found myself very much in agreement with most of what the Honourable Tony Loado had to say. I agree with him as well. There is nothing shameful in the proud military history which Gibraltar has had as a fortress. The only thing is that all that has happened because it suited Britain, and it happens that particularly more recently, as the people of Gibraltar develop their own identity, it also has suited us in the last few decades particularly during this century, and it would continue to suit us that Britain should continue to have the same level of commitment to Gibraltar through defence spending as has been the case up until now. Unfortunately, however, it is my view that in the past Her Majesty's Government has done very little to diversify the economy of the territory that she was responsible for and the people that she was responsible for, just as in fact they did very little to meet the social needs of the people of Gibraltar before the second World War. You now have the instance of what has happened with Development Aid. I think it is perhaps true to describe what we have received as too little and too late. £25 million to be spent on commercialisation by way of capital investment and a naval support programme is fine but there are no guarantees attached that and I am very fearful about what is going to happen, firstly, to the hundreds that are going to find themselves without a job at the end of 1983, whether commercialisation goes through or not. I am very fearful about what is going to happen after 5 years when that naval support programme tapers off but I will come back to

this. My attitude, I think, on the question of the Dockyard is well known and I do not share the optimism of my Honourable Colleague on my left, I think my approach is a much more realistic one. We have been, in the course of this project study team in which the Gibraltar Government is involved in, we are taking the opportunity of testing the MOD and probing them not only with respect to the requirements, to the needs of a commercial yard but also I think that the experience is going to stand us in very good stead for the future. Once this small matter of the transfer of dockyard assets has been sorted out, I have no doubt that we shall have to look very carefully at and step up our demands for the transfer of MOD land. I think that it is perfectly reasonable that the Ministry of Defence and the Services here should have not just essential facilities for the maintenance of the naval base, but I have always defended the need that they also have for adequate recreational facilities. I have always said that to make a strict proportional comparison as between the number of Gibraltarians and the number of Services and expatriate families is not a valid comparison because invariably the United Kingdom Services families and expatriates are young families and therefore they may need proportional rather more recreational facilities than what the people of Gibraltar as a whole need. But what we cannot allow, Mr Speaker, indefinitely, is a continuation of the state of affairs that anyone will witness if he looks down, for instance, from Bleak House down on the Nuffield Pool, and I am not just speaking specifically about the Nuffield Pool, but the vast area that there is between the Nuffield Pool and the western seafront, a huge area for a select few. That cannot be allowed to continue. Neither can we have a few select expatriate families at the Rosia Swimming Club with a few local Civil Service families who have also been able to become members, enjoying that bay, Rosia Bay, which has got great touristic and economic potential. This is something which we are going to have to very seriously look at. I hope that when the dockyard closes down at the end of this year, that the dockyard families who are now using it, I hope they will not be replaced by Appledore expatriate families, I would not want to see that. We have not been, up until now, exercising a great deal of pressure on these matters, Rosia Bay, the other area of the Nuffield Pool, or other areas along the Western seafront for the very simple reason I think that it is not realistic to expect in a closed border situation that there will be enough prospective developers to come to Gibraltar and invest their money here. Look at the experience we have had with Parsons Lodge. But once the border opens and if the development of tourism is going to become perhaps the only other viable and reasonably guaranteed support of the economy, then there are many areas that we are going to have to fight the Ministry of Defence over and we will not be able to afford to lose on that one. Of course we want the Ministry of Defence to remain here, there is a coincidence of interests, but the Ministry of Defence does not appear to have due regard for the requirements of our economy and that is why they cannot be the arbiters of what is required. That is why the appeal will have to lie somewhere else. I am very happy to be able to tell the House something which I think Honourable Members have heard before, that the local Service Chiefs are helpful. We have got a new Deputy Fortress Commander and a New Flag

Officer, Gibraltar, but I think the indications are, particularly in the case of the new Flag Officer, Gibraltar, who is more directly concerned with the matter, that he is going to be as helpful as his predecessor, if not more so. There is no problem in that respect. The problem lies in London. The problem lies in Whitehall. And the problem is compounded by the fact that there are three Departments of State in London who are intimately concerned with the affairs of Gibraltar. The Foreign and Commonwealth Office, on the one hand, who have been particularly helpful since last September on the question of the dockyard and on the question of Development Aid, the Overseas Development Administration, and the Ministry of Defence. And the Ministry of Defence are, perhaps, the most if not the most difficult department in Whitehall. But, as I say, I have serious doubts and I have serious doubts about the viability of the dockyard for one main reason and that is the very serious recession that there is in world shipping and so we find that no matter what we try to do in a commercial port to attract shipping, by waiving tonnage dues for ships calling here for bunkering, by trying to provide more water, the fact of the matter is that as the years go by, the last three or four years, fewer and fewer ships are calling at Gibraltar because there are fewer and fewer ships that are active and there are more and more ships out there in that Bay waiting for order, seventeen over the weekend which is colossal number of ships lying idle. That I think is the nub of the problem because I have no doubt that given the right working conditions and the right salaries which if a commercial operation were to be viable, and who is to say that wages and salaries might not be higher than what they are now, I have no doubt that the local labour force has the expertise and the pride to rise to the challenge. But it is very difficult to rise to a challenge if you foresee that after 5 years it might be a case not of more people being employed, which is what taking up at their face value the Appledore proposals would mean, that after 5 years or so more people would be employed there than is the case now. But people are not that optimistic and what they can see at the end of 5 years is a commercial yard having to shut down because there is no longer support from Her Majesty's Government and because the Gibraltar Government will certainly not be able to support it. So the imponderable, as far as I am concerned, is the situation as far as shipping is concerned. The Honourable Mr Bossano, however, earlier this morning told us that a commercial yard just cannot be delivered and it cannot be delivered because the workers involved simply will not cooperate in that venture. I accept what the Honourable Mr Bossano says, he is very close to the people there, and I am prepared to accept that that is the case but the prospects therefore are, if the project study team were to say that it is viable, if the British Government were to accept that, if the Gibraltar Government were to accept that, the prospects against that background of saying no to Appledore are that surely the yard will be closed at the end of 1983, and no doubt what I can envisage happening then is that there will be a sit-in of dockyard workers there. But what then? What is going to happen then? I sincerely wish the Trades Council every success in the appeal that they have made to Mr Heseltine but I think that if naughty Nott set Gibraltar a knotty problem, I certainly cannot see the present Secretary of

State, Mr Heseltine, who like his boss has acquired a reputation for toughness, being any more helpful and unravelling and knots of the problem for Gibraltar. The Chief Minister said in introducing his motion that in Gibraltar we command a great deal of support right down from the Prime Minister. The Prime Minister herself has intervened on one or two occasions recently but she is also a tough cookie and she is also the chairman of the Overseas Defence Committee which I think have been the people who precisely have taken the decision to close down the dockyard. And as yet I am not aware that anyone has taken on Mrs Thatcher and defeated her so I wish the Honourable Mr Joe Bossano, for the sake of all of us in Gibraltar, the best of luck. If he is going to take her on from June onwards, I hope that he will be successful because if he isn't the prospects are extremely bleak and we are heading, I think, into the kind of situation that the Chief Minister - I think it was the Honourable Major Peliza reminded us about what the Chief Minister said when the new Governor arrived - the potential that there is in the closure of the dockyard for a catastrophe, and not just an economic catastrophe but a constitutional and a political catastrophe for Gibraltar. I think if that is the way ahead, Mr Speaker, I think that we are heading for chaos and out of that chaos I do not know what is going to come. The Honourable Mr Bossano spoke about the mood in Gibraltar changing, that it is changing. I agree that it is changing. You have seen indications of that on the Government benches. The Honourable Major Dellipiani speaking very eloquently from the heart, because that is the feeling that he has as a Gibraltarian, and he is echoing in this House that feeling, that attitude which a lot of people in Gibraltar have. But, is there unity and is there coincidence of views in Gibraltar as to what the way ahead is? We know what our ills are, we do not particularly like them, are we sure as to how we can overcome them? Is there full awareness, I would ask, amongst the people of Gibraltar, generally, who are not directly affected even now, as to what the closure of the dockyard actually means? Do people employed elsewhere in the public sector understand and realise what it means? Do those involved, for instance, in education, understand what it means for the educational service if the Government cannot balance its books? And so on, those in the medical services. Is it acceptable to people that we should have to retrench in these services which I for one take a great deal of pride in? So the prospects that I can see, Mr Speaker, at the end of 1983 and the beginning of 1984 is of more unemployment, a situation more serious than what is anticipated at the beginning of a commercial operation. A situation of another 1000 people unemployed over and above the 600 that there already are because Mr Bossano tells us that if the choice lies between taking employment with Appledore or unemployment benefit, the choice is one of unemployment benefit. Unemployment benefits will be paid for three months.

HON J BOSSANO:

If the Hon Member will give way. I said that people would put Appledore above the dole and behind everything else and that they would only go to Appledore until they could go out and get another job, and only go and work for Appledore if they had to

chose between being on the dole and being in Appledore, if it is that Appledore is accepted and established, but that is hardly the basis upon which a successful commercial enterprise can be built.

HON A J CANEPA:

I am grateful to the Honourable Member because I misunderstood him because the prospect otherwise would have been that in a few months after that I think the Gibraltar Government's financial position would have been seriously undermined through having to pay supplementary benefits to hundreds of people. So I think, Mr Speaker, we have a very difficult path to tread in Gibraltar in respect of two matters. In respect, first of all, as far as the motion is concerned, as to the need that there is to make the Ministry of Defence conscious and appreciative of the essential requirements of Gibraltar because committed as we are to the maintenance of a Naval Base, we will have to be more demanding and more zealous in fighting for what we consider to be essential for our economic survival once the mainstay, once the main support of the economy has been knocked down by the closure of the dockyard, and over and above all that we have got to think very deeply as to what the prospects are in the second half of 1983 and in 1984, if the kind of scenario that I have described and which is my understanding of what the Honourable Mr Bossano has told the House this morning, is what is facing the people of Gibraltar. Where it will all end if we go down that road I do not know and this is why I would like Members of the House to get together and discuss this problem, and one of the matters that we are voting on is the amendment which the Opposition introduced, full concentration I think needs to take place not just about the commercialisation of the Dockyard, but about the wider spectre of ruin and chaos which faces Gibraltar if that road leads where I think it will lead.

MR SPEAKER:

I will now call on the Chief Minister to reply.

HON CHIEF MINISTER:

Mr Speaker, whatever the differences I am sure at least on this the Honourable Mr Bossano will agree, that it has been a much more fruitful exercise than to have gone for 10 minutes on television, this exercise that has prompted his challenge to go to television which has made me bring this motion here. I am very pleased that I have brought it, for that reason or any other, because we are dealing with matters which go to the root of our future and which must be dealt with and people's position cleared. I said at the beginning when the Honourable Leader of the Opposition moved his first amendment that I would not speak to that amendment I would speak generally, and my Colleague on my left has touched on it and of course what is now sub-paragraph (5) "considers that full consultation should take place between all the political parties represented in the House of Assembly before a final decision is made on the commercialisation of the Dockyard", is fully accepted by the Government and in fact it was

never the intention or indeed, I wonder whether we have the power, to go it on a commercial basis purely as a Government without the consent of all the others, if only because of the legacy that that would leave behind if there was no agreement. There may have to be a consensus or there may have to be a parting on the ways but at least everybody should consider that when the time comes. And this brings me to another point which I think ought to be cleared, and that is about the question of the availability of reports. There is not one sole document that either deals with the dockyard or there is no document that says that the dockyard commercialisation is the cure to the evil, that is not so. So much so, that there is now this project study and it has been made clear both in Gibraltar and in London, and Honourable Members who follow what is said in Parliament, clearly stated that both the British Government and the Gibraltar Government have not made up their minds yet as to the viability of the commercialisation of the Dockyard. What is now being done is a process of study and consultation and it will be the outcome of that where the meat will lie and where the judgement will have to be exercised whether what is the final result of those consultations make it viable or not. If we are advised that it doesn't or we are advised that it does, then it is the spectrum of that that will have to be considered when all the facts are available which are not available now. Despite whatever Mr Bossano may have said they may have said: "If we agree these are the timings". Of course, any project must look ahead theoretically as to what is to happen but there are the hard facts that have to be found which have not yet been all identified otherwise we would not be having these broad meetings with representatives of all sections, not only of the Foreign Office but even within the Ministry of Defence the various sections affected. It is a very serious matter and I would like to say in support of what my colleague has said, that it has been a decision at the highest possible level, (a) to see whether it is a viable proposition, apart, of course, from having been the result of the highest possible level decision of saying that the dockyard was no longer necessary in the new defence strategy. The highest, the top decision to look at the viability of a commercial dockyard arises out of a similarly high decision of saying that in the new defence strategy the dockyard is no longer necessary for naval purposes in the sense that it is now. These are the matters which we will have to come to consider and of course it was necessary and perhaps it is to be expected that that might take a larger part of the debate and that other matters of equal interest have been brought up but I must bring back the debate to the purpose of my motion and that was for this House, whether the Honourable Member agrees with it or not, but at least that this House should have an opportunity of discussing this question of compatibility if in fact it is decided after all the studies are made that there is a chance of a commercial Dockyard being made viable, that it is desirous of the Gibraltar Government, it is desirous of the people of Gibraltar that the Base should continue. What my Honourable colleague on my right, Major Dellipiani, has said and I agree with the description of Mr Bossano that it was more the heart of the Gibraltar than a politician. I accept that, not that the heart of a politician is different from the heart

of a Gibraltar if the politician is a Gibraltar. But sometimes we have to measure the matters that are said. There is, of course, and I have always said this, and my colleague who has just spoken, Mr Canepa, has just mentioned it, I always say it, too, because I think it has to be said. Whereas we have not got the muscle, as the Leader of the Opposition was rightly saying, to take on the British Government which is what it would be if we were to take the view of the now defeated amendment, or in fact we would have to take on the NATO nations, not just the British Government, the whole of the NATO nations. Whilst we have not got the muscle to do that, it is also true that there is a considerable amount of coincidence of interests with the British presence in Gibraltar together with the interests of the people of Gibraltar, and I think in fairness to the higher echelons of the establishment in the Services even the politicians, they make no bones about it, so that in fact if they wanted to drive a hard bargain they might represent that they are not interested and that they are only here at our beck and call. But they do not do that, they tell you it is essential. Chiefs of Defence Staff, visiting brass from all services, and you have even Admiral Crowe, the Supreme Allied Commander, Southern Europe, saying how important Gibraltar is. So that in fact they are not trying to kill us and say we are there because we want you, but it is also a hard fact of life that Britain is going through a recession, a very hard one, they are going through very difficult times to try and see whether they can bring the economy up, and we are brought into this morass and the closing of the dockyard for the same reasons, it is part of that morass which has brought about also the cuts in the Overseas Vote, which has had the result on us on that. Of course when they say that Development Aid comes very short of what one expects but I also have friends in England who say: "Having regard to the difficulties that we go through here, you chaps are looked after well!" They say this looked at from London which is very different to looking at it from Gibraltar. And in that respect I think that the money, for what it is, is good and necessary. Perhaps not as good as it should be but it is also, if I may say so, a symbol of the continuing interest. It may not be that the world can revolve around Gibraltar and that Whitehall is not thinking all the time about Gibraltar. But I think that having regard to the circumstances of the case, of the situations in the world, I think that due regard and respect is shown for the people of Gibraltar in a general way. That does not mean that we are going to get everything we want, but in a general way. I think the will of the British Government to invest a big sum of money if that is necessary and viable in the Dockyard is the best indication of their continuing interest. What would have been the alternative? The alternative would have been grants-in-aid which I made quite clear they could choose anybody they wanted to have the territory run on grants-in-aid. I would not be a party to that because I would not want to have to ask London every time you wanted to buy a washing machine, or a Hoover, or a typewriter, or anything. I know because previous Financial Secretaries have been in territories where there have been grants-in-aid and I know the very strict restrictions that apply to grants-in-aid and how the territory has to pay the first amount of surplus money towards the first

grant and not for their benefit even if they increased that and that would be disastrous. We have never been grant-aided. We have always been able to fend for ourselves, and reasonably prosperously, and had it not been for the acts of other people over which we have no control, we would have been able to carry on whatever changes there might have been in the pattern of the defence, to have carried on earning our living as we have been earning, perhaps less prosperously but nevertheless certainly at a higher standard than those around us. Earlier in these proceedings, Mr Bossano referred to the veto of the Lisbon Agreement. We have no veto of the Lisbon Agreement but, equally, we ought to realise that the right that the British Government have given us to determine our future is also limited, necessarily limited, and that is that we have to either go it with Spain or go it with Britain. There is no alternative. Go it alone we can't, we wish we could. Mr Speaker, I commend the motion.

Mr Speaker then put the question in the terms of the amended motion which now read as follows:

"That this House, while still opposed to the British Government's decision to close the Naval Dockyard -

- (1) appeals to Her Majesty's Government to reconsider its decision;
- (2) considers that it is in the interests of the Western Alliance of the free world generally, and of Gibraltar itself that the British Naval Base at Gibraltar should be maintained;
- (3) endorses the view of the Gibraltar Government that, in the consideration of the proposals for a commercially-operated ship-repair yard, full regard should be had to the essential requirements of the Naval Base; and
- (4) trusts that, conversely, the Ministry of Defence and indeed the British Government as a whole, will have full regard -
 - (a) in the consideration of such proposals, to the needs of such a yard should it eventually be agreed by all concerned that a commercial operation would be feasible and viable, and
 - (b) to such other needs as may be put forward to the Ministry by the Gibraltar Government in its efforts to diversify and strengthen the economy generally in order to offset the effects of the Dockyard closure.

- (5) considers that full consultation should take place between all the political parties represented in the House of Assembly before a final decision is made on the commercialisation of the Dockyard".

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

The Hon A J Canepa
 The Hon Major F J Dellipiani
 The Hon M K Featherstone
 The Hon Sir Joshua Hassan
 The Hon A J Haynes
 The Hon P J Isola
 The Hon A T 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 following Hon Members abstained:

The Hon J Bossano
 The Hon R J Wallace

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
 The Hon D Hull

The motion was accordingly passed.

The House recessed at 5.30 p.m.

The House resumed at 5.55 p.m.

BILLS

FIRST AND SECOND READINGS

THE TRADE LICENSING (AMENDMENT) ORDINANCE, 1983

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 now have the honour to move that the Bill be read a second time.

Mr Speaker, this Trade Licensing Bill is designed to rectify some anomalies in the Legislation, dealing really mainly with two matters, the question of dual licensing and that of cancellation of licences. Dealing first with the question of dual licensing, the present position is not entirely satisfactory where a person is required to hold another licence under any enactment which is specified in the first Schedule of the Ordinance in addition to a Trade Licence, and the enactments that I am referring to in the third Schedule of the Ordinance, Mr Speaker, are under the Licensing and Fees Ordinance there are a number of licences, manufacturers licence, wholesale, wines, merchants licence, full wine merchants licence, a beer merchants licence, a grocers wine licence, a taverners wine licence, a tobacco licence and a bakers licence. Secondly, Mr Speaker, under the Firearms Ordinance, a firearms dealer. Thirdly, under the Market, Street Traders and Peddlers Ordinance, persons who are trading from the public highway. Under the Petroleum Ordinance, a licence to sell petroleum, under the Wireless Telegraphy Ordinance, radios, televisions and other transmitting and receiving apparatus. And, lastly, under the Medical and Health Ordinance 1973, in respect of medicinal products. The Authority at present, Mr Speaker, will not withhold the issue of a trade licence by reason only of the fact that some other licence or permit is required and what Clause 3 of the Bill seeks to do is to regulate the procedure in order to ensure that applicants in such cases will seek the appropriate permit or licence before they apply for a trade licence. Secondly, Mr Speaker, the question of cancellation of licences. At present, action to cancel a licence can only be taken when the business or trade has not been carried on for a period of 12 months or two years respectively. Thus some

licences have renewed their licences even when they are known to have vacated the premises which are specified in the licence. It is suspected that most of these licences are renewed for sale to third parties. And in addition to making it an offence to sell or barter a licence, provision for which is made in Clause 2, the amendment will give the Trade Licensing Authority powers to cancel the licence if the premises have been vacated after giving the licence holder the opportunity to be heard. The vacation of the premises, especially when those premises are the subject of a new application for a licence by another person, is in itself regarded as a sufficient reason to cancel the licence because the basis for holding the licence has gone. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

I have some doubts about some of the proposals in this Bill. The new Section 3 I think is fine, there is no problem. I am a bit concerned about the question of a person who enters into an agreement for selling a licence shall be guilty of an offence because in effect most of the transactions that I have come across involve the selling of a licence. For example, if somebody is trading in a shop and holds a licence and comes to an agreement with somebody else to sell his premises, or to sell the lease, or the business or whatever, he is in effect also selling the licence, and then what happens is that nobody is interested in buying a lease of a shop for example, if he is not also going to be able to have the licence. So it seems to me that as drafted, this is a very, very dangerous provision. That is number 1. Number 2; if somebody can sell a lease, somebody can sell a house, somebody can sell a taxi, does this include a taxi licence? If somebody can sell a taxi, somebody can sell anything, a practice, why cannot they sell a licence, Mr Speaker? I am not clear on that and I know it is quite a commercial practice now to sell licences, usually with premises, I do not see the danger or the evil in somebody selling a licence. I agree the Trade Licensing Committee can say I can have a licence for premises in say, 210 Main Street, Gibraltar. The landlord wants the premises for himself, pays me the compensation, and I have to give it up, and I am left with a licence but without premises so I have to look for a place to go there, to take them to the premises. Really, the Trade Licensing Committee, if the landlord then applies for a licence in those premises, it will be up to the Trade Licensing Committee to decide whether the needs of the community in that area allow for this licence. This is one of the risks anybody who gets premises without a licence has to run and that includes the landlord or anybody else. I have got experience of a case of Section 4, a man who was chucked out by a landlord. A company had a licence in respect of those premises and got his compensation and he has got a licence but he has not got

premises, not because he does not want to trade but because he wants to find some other premises. So I think that particular section also requires some amendment. I see the problem that the Minister has related to, and that is that the existing law says, if you do not use a licence for 12 months or something then on notice it can be rescinded. Well, even if the man has renewed his licence, surely, if he is not trading from the premises to which the licence applies, even though it has been renewed, under the present legislation the licensing authority can cancel it. All I would like to be written into here if it is found to be necessary, is a provision that the licensing authority cannot proceed to take action to cancel the licence for a period of time after the premises have been vacated. In other words, I would think 6 or 12 months Mr Speaker, then by all means give the chap a chance who may have been chucked out of his premises to find some other premises. I don't think there should be difficulty in meeting that objection. The only principle that troubles me in that Bill is this question of making it a criminal offence to sell a licence. Perhaps it should be couched in a different way. What happens if somebody has a licence, the company has a licence for premises and just sells the shares. Somebody buys the shares because he has got the licence, it is the same thing, surely? Why propose something that can be easily circumvented if any thought is given to it. I would have thought to let the law of supply and demand, be the guiding factor. I find it difficult to see why selling a licence should be an offence. You have got the tavern licences, for example. How many bars change hands regularly and what is being sold, really, is the tavern licence as well because it attaches to the premises. If they want the licence for some other premises you still have to get consent from the licensing authority to move it from one premises to another so is that provision necessary at all to make it an offence. What is the reason for making it an offence in this case? But on the other one, Mr Speaker, I do think that a licence in respect of premises vacated should not be cancelled for at least a period of 6 or 12 months to give the chap an opportunity to go somewhere else if it is vacated through no fault of his own. Then we must not forget the fact that under the law as it stands now, a licence in respect of premises can be transferred to a company that takes over the premises, it cannot be refused. It just seems to me that this business of selling a licence just does not fit in into the general picture or into the normal commercial practice that I detect goes on with which I see nothing wrong.

HON CHIEF MINISTER:

I think, Mr Speaker, that the clause has been inserted as a result of representations made by the Trade Licensing Committee in connection with some problem that they had with the transfer of a licence to a liquidator for the purpose of winding-up proceedings. The transfers are compulsorily allowed under section 7(iv)(b) the indications are that trading licence are treated as assets and sold and that recent cases have revealed that the provisions can be abused. I think that perhaps the

answer when we come to Committee might be to seeing the case of a licence without premises, selling this licence for consideration without premises after a period of time on which no business has been carried on.

HON J BOSSANO:

I think, Mr Speaker, that there has to be a stronger case made for the changes that are being suggested because it may be that because of one particular incident in trying to put one thing right we are putting a lot of other things wrong. Even the last point made by the Honourable and Learned the Chief Minister about the premises, let us not forget that a lot of licences are not attached to premises. There has to be a registered address but there does not have to be necessarily an address from which the business is operating. That is constantly coming out, for example, where it is a licence to do repairs and things like that there does not have to be premises so what happens in those cases, there are no premises involved, people are working on their own from their home address which is a registered address of the business and there are a lot of small businesses which are one and two men jobs and they build up a goodwill. The only way the goodwill can be translated into something in a situation like that is because perhaps since there is a limitation on the number of licences, someone wanting to enter into the field cannot enter into the field, somebody wanting to get out passes his customers and the licence to the newcomer so it certainly requires a great deal more thought.

HON CHIEF MINISTER:

We propose to look at that point at the Committee Stage. The rest, I understand is acceptable.

HON ATTORNEY GENERAL:

Mr Speaker, there are three points I would like to comment on on this Bill. One actually arises not really directly from the Bill but I do want to make mention of it. Whether or not it is desirable to make it a criminal offence to restrict dealings in a licence, I would just like to say this because I think it might be useful when one comes to consider in Committee what should be done. There is, I think, a point of view which is on these lines that this is a licensing scheme to control trading but it is not necessarily and this is the matter I think is a matter of policy, it does not necessarily follow that because you set up a statutory Licensing Scheme you should enable that scheme or licence created under that to attract goodwill. There may or may not be reasons for saying we have the statutory system of control but we will divorce it, as it were, from any other elements of dealing on the goodwill on the goodwill of the real asset, the goodwill of the business and that I think is a point which members may want to consider when coming on to the question whether or not this provision should be retained. So far as the enforceability of it is

concerned, the point has been made and I think I would agree that in practical terms it will not always be easy, in fact it will often be difficult to enforce it but I do think speaking just to that point that there is purpose if one decides as a matter of policy that one doesn't want to allow dealings in licences, there is purpose in prescribing in law because even if it is not always effective I think the law does have a discouraging effect on some people, I wouldn't want to seem too naive on this but I think there will be some people who will not break the law, there may be other people who will. But as I say if it is decided that there is a need to such provision then I see some point in having it even though it might not be that easy to enforce it. If I can come to the second point that was taken which relates to clause 4 of the Bill. The scheme of the Trade Licensing Ordinance as I read it, is that a licence is issued for particular premises and in fact the person to whom the licence is issued does not have his business in those premises for whatever reason, his being able to hold the licence would seem at first sight to no longer be in accordance with the scheme of the Ordinance because it is quite explicit. Well, let me say even though I cannot quickly find it that there is no doubt at all that the Ordinance says that a licence attaches to certain premises. Section 17 of the Ordinance as it now stands, sorry, it is 6 and 20, of the Ordinance, already contains provisions which enable a licensing authority to review a licence and by review I mean they enable the Licensing Authority to consider whether the licence should remain. One such provision is where the business is not in fact being carried on for 12 months, there I can see a point in having a time to go by because there may be reasons why the business hasn't been carrying on for the time being. The second one relates to trade which of course is dealing in goods and in the case of trade they can review it if the trading hasn't carried for two years and again I can see the point of allowing a period of time to elapse. But it does seem to me that if one of the basic considerations in the Ordinance, namely, that the licence has issued for these premises no longer exists, then to me it is not necessarily objectionable at all and in fact I think it is quite a valid point of view which could say in that situation the licensing authority may review the situation immediately. I appreciate that there may be cases where the businessman has a dispute with his landlord but I would draw attention to two qualifying factors. The first is that this is discretionary, the licensing authority may review the licence and decide to cancel it. The second one is that the licensing authority must give the licensee the opportunity to be heard so that the licensee could come forward and say: "It is true that I am no longer in these premises but I have a dispute going on with my landlord in which I think right is on my side and therefore I would oppose the cancelling of a licence at this stage."

HON P J ISOLA:

If the Honourable Member will give way. It is also the scheme of the Ordinance to allow, subject to certain conditions, the

transfer of a licence from one set of premises to another and the licensing authority can in fact refuse that transfer so that it is not just in the scheme of the Ordinance that the licence attaches to premises, it is also within the scheme of the Ordinance that a licence can be transferred from one set of premises to the other and the Licensing Authority has its opportunity in that situation to refuse it, but to give the licensing authority a right to step in as soon as the premises have been vacated would seem to me to give them more authority than is desirable.

HON ATTORNEY GENERAL:

I take the point that is being made. I still think there is some difference between the question of whether the premises are still held and the question of whether the business has paused for a time but I take the point that is being made. The other point of course is that there is a procedure which will apply to this provision as much as to the existing provisions in the Ordinance for the hearing of an objection or representations against the cancelling of a licence, I would just draw members attention to it, it's subsection (3) of Section 20. The other matter which strictly speaking, Mr Speaker, is incidental to this Bill but if I may take the opportunity to mention it. During the second reading debate or it may have been the committee stage of the last House of Assembly when the Trade Licensing (No 2) Bill, 1981, was being considered, the Honourable Mr Bossano made a point that the transitional provisions would not be applicable and there was no need why they should be applicable to any person who already happened to hold a trade licence as at the date that Bill came into effect, Mr Speaker. I demurred at the time and in point of fact I looked at the point and I indeed was forced to look at it because a case came up which was quite a good test for the matter, and I would agree with respect with them that because of the extended definition of trade, and I take the point fully now, and it may be a useful opportunity to say that anybody who did hold a licence before the commencement of that amending Ordinance would not need to come back again and apply for a further licence and this is the advice we are giving to the Trade Licensing Authority. Of course it would only apply if he was importing goods of the same kind as are specified in his licence there would still in theory be a need for a person who started importing prior to the Ordinance and didn't have a licence, to come along and apply for a licence but members may want to reflect on the fact that it is a little bit difficult to imagine somebody importing and not dealing with the goods subsequently by commercial transaction.

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 of this Bill be taken later in these proceedings, certainly not today, perhaps tomorrow.

THE LICENSING AND FEES (AMENDMENT) ORDINANCE, 1983

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Licensing and Fees Ordinance (Cap 90) 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. Both the Financial and Development Secretary and I have received representations from local suppliers on the question of the hiring for profit of pre-recorded video cassettes and as a result of these representations Government have considered that the whole matter should be regulated. The legislation that we are bringing to the House therefore is mainly aimed at protecting consumers from badly transcribed local reproductions by requiring dealers only to hire original video cassettes. The licensing policy is intended to be liberal in that all dealers operating from business premises will be licensed for an annual fee of £25 and it will be in the licences that stringent conditions will be imposed to ensure that only original video cassettes will be hired. The conditions are intended to be:

- (a) that the business is to be carried out only in the authorised premises to be named and therefore licences will not be issued to businesses operating from Government-owned dwelling houses and flats.
- (b) only imported pre-recorded video cassettes will be hired.
- (c) on importation all invoices will bear a certificate that the importer is authorised to hire by way of business all the cassettes listed in the invoice and it will be the Collector of Revenue who will stamp with a revenue stamp all video cassettes imported into Gibraltar and, finally, the licence will also make it clear that the making of copies in Gibraltar is prohibited.

In this respect, Mr Speaker, at Committee Stage an amendment will be moved by the Attorney General to cover the case where someone makes a recording from a TV image during a television broadcast of a film or other programme and hires that tape for profit that matter will be covered in committee. I think, Mr Speaker, I should also mention because it is pertinent to the matter, that we are watching carefully the action which is being taken in the United States and in the United Kingdom to deal with the whole question of pirating. I think the result of the action to be taken in both these countries should mean that it will not be necessary for us in Gibraltar to make any incursion into a field where enforcement could be a very difficult business for us. I repeat, Mr Speaker, that the approach that we are taking is mainly from a consumer angle to ensure that the consumer doesn't get a very poor copy which is a bad reproduction of something which has been recorded here locally and, secondly, too, I would say regulate rather than control the business of hiring video cassettes. It is a business which has proliferated somewhat of late and I think it is a matter that needs to be regulated. We have had complaints about some people who are dealing from Government premises, it has been difficult if not really been impossible to arrive at any formula for putting that matter right by way of a higher rent or anything like that and the answer, I think, is not to issue a licence where the would-be authorised premises emanates from a Government flat or dwelling. Mr Speaker, I commend this Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, in speaking on the merits of this Bill I think I will have to declare an interest and I won't be voting at all on the Bill but I think the House may be interested in the knowledge and in the information that I have with regard to video piracy with which I have been professionally involved. I have, in fact, Mr Speaker, been involved in several actions in the Supreme Court on behalf of the Society of Film Distributors in London and the Motion Picture Association of America aimed at obtaining injunctions against businesses and firms that are dealing with pirated copies of films. The question of copyright, Mr Speaker, is quite a complex problem because there are different kinds of copyright, there is the copyright of the man who originally makes the film, Metro Goldwyn Mayer or whatever, and then you have a stage where the man who does the film in the cinema gets paid and then a pirate copy is made and it is easy to prove in those cases that it is a pirate copy because the copyright has not been released for video reproduction in video and therefore that is quite simple. Where the problem arises is when the film company itself has in fact sold the video rights to a distributor and then the conditions on which he has sold the video rights may be limited or may be unlimited

and then that man may then sub-sell his rights to somebody else and that causes problems. The area I am worried about and the problem that I would like to pose is that because it is a very complex matter I question whether it is wise to branch off on our own interpretation of copyright or our own procedures for this. In the United Kingdom they made an amendment to the Supreme Court Act in England which deals with the question of grabbing pirate copies or suspected pirate copies of videos which can be quite effective with the amendments that have been made and there is also now a Bill before Parliament which is expected to go through where the penalties for video piracy have been increased very substantially because it is such a flourishing trade, Mr Speaker. It is amazing, it is spread all over England and of course in Gibraltar we know how many video clubs there are, how many video films there are out and I think very few people know which are pirate copies and which are not. Some are obviously pirate copies because they are very bad copies. But in actual fact people do not realise that possibly a good number of the ones that appear to be clean are also pirate copies but for other reasons because the person who is selling it didn't have the video right to it. Mr Speaker, the only problem that I see with this Bill, but I have listened with interest to what the Minister said about the importation, that it will be the Revenue who will look at the importation of video films. The problem I see is that it is comparatively a simple matter for somebody to buy from a wholesaler in England a video film and that wholesaler may have the right to sell video films but in England not in Germany, or in France, or in Gibraltar. The person who buys from England therefore buys from his wholesaler who assures him it is OK, it is alright, he can buy he can show it. He brings it to Gibraltar, perfectly good video film, quite obviously a genuine copy, put it that way, and then shows it in Gibraltar and then he is prosecuted because it is discovered or somebody says "That man has no right to sell that because the video rights in Gibraltar are held by somebody else", for example, and these are the sort of problems that I think could arise depending on the copyright that has been given out.

HON MAJOR R J PELIZA:

If the Honourable Member would give way. The purpose of that individual who buys in UK to see it himself in his own house. I think that there is a difference between buying for himself or for hire.

HON P J ISOLA:

Oh, yes, for hire. There are some video films which can be bought, and if anybody has bought them, I have, especially for my grandchildren of Mickey Mouse and things like that, and the first thing it says on your screen is that this is not for public entertainment, it is only for a private show because the copyright depends on the actual contract that has been drawn up by whoever grants or releases part of his copyright. There are all kinds of different contracts that can be made and I think that it is very easy for somebody innocently to purchase a video film from a reputable wholesaler and pay for it, import

into Gibraltar and then under the proposed law if somebody were to make a complaint that it is a pirate copy, not an authorised copy, then that individual from the way the Bill is drafted, it would be his responsibility to prove that it is not a copy. That is, I think, going to be a very difficult process and an onerous process for a defendant. If we are going to make it a criminal offence, to hire in an unauthorised manner a video film, surely it should be the prosecution that proves that it is a pirate copy. It should not be the trader or the video club's responsibility to prove that it is authorised because that defendant may get up in Court and say "Well, I bought it from John Smith Limited of London who are wholesalers in video films, I bought it from him". And the Court might say "Yes, you may have bought it from him but you prove that he was entitled to sell it to you for selling in Gibraltar, or in France or anywhere else".

MR SPEAKER:

Without wishing to interfere in the debate, is that correct, is it not for the prosecution to prove?

HON P J ISOLA:

As I read 29(c), "It shall be a defence in any prosecution for a contravention of sub-section (1) if the defendant proves that the copy is lent by way of business by him with the authority or consent of the person holding the copyright in the material". He would have to show that that person holds the copyright, the person from whom he got it. Is that not, I would ask, an unreasonable burden to place on a defendant having regard to the fact that even though he has imported it and the Collector of Revenue has put his stamp on it and so on and so forth, a complainant could still say: "Prove that the person you bought it from had the copyright". This is why although I have the greatest sympathy with the persons who are trying to do away with pirate copies, because, clearly, it is wrong that when the film industry has spent millions of pounds in making a film, that within three months video dealers should have them on the market and have borne none of the cost of the making of the film. This is what is so bad about video piracy. But I think this Bill, when you are talking of the infringement of copyright, it is all along the line. The Copyright Act of 1956 in fact applies to Gibraltar by Order-in-Council, I think, and this is being amended now, I know. Whether the amendment will apply to Gibraltar I have no idea but what the amendment does is to put such severe penalties on video piracy that it will be a matter, really, for the police and the burden of doing away with it is shifted from the film companies through civil litigation on to the police or the Director of Public Prosecution to do the prosecution. And what this Bill does, although I agree and I am sure we all agree on this side of the House with a system of licensing and regulating, I think this is a good thing, it should be done, I think, however, that when you come to talking of infringement of copyright and so forth, I think one ought to try and follow the legislation in England and the extensions of the Copyright Act and I do not think, Mr Speaker, having regard

to the complexities of copyrights, both for the person who affirms there has been a breach of copyright and for the person who knows nothing about copyright and he feels that because he has brought it from a recognised dealer he is safe, I think it is wrong in principle to shift the burden of proof when it is a criminal offence we are talking about, to shift it from the prosecution to the defendant and for him to prove that he is an authorised dealer. That is really the main point I would like to make on this Bill. The other thing I would like to say, Mr Speaker, on this Bill is that as far as we are concerned we received a copy of this Bill a week ago so I can only assume it has not been published, well, it has been published probably but I do not know how far people in the business in Gibraltar have had an opportunity to look at it and I would certainly suggest that the Committee Stage is not taken in this meeting and that when the Committee Stage is taken perhaps the Government would like to consider the points I have made but as I say as I have been intimately involved in this, in fact, I have written for amendments of the law on behalf of the Society of Film Distributors to the Honourable and Learned Attorney General, I would prefer to abstain completely on the voting of this Bill. But I thought I would bring to the House my own experience, limited as it has been, in this sphere.

HON MAJOR R J FELIZA:

Mr Speaker, I would like to say a few words on this Bill too, and I would also like to declare an interest and like my Honourable Friend here, I will not be voting on this Bill. I think it is very welcomed that some form of control should be introduced because it is not just the producers of the films who lose money but also I think people in the trade itself locally who obviously want to act within the law by not renting copies, find it extremely difficult when they find that their competitors are really using pirate copies and therefore can offer the same entertainment at much cheaper rates as they have not paid the full amount for it. In that respect, therefore, I think it is a good thing that it should be controlled in some way or other. I also agree with my Honourable Friends that it is putting an onus on the dealer which is really almost impossible to carry out unless one is going to tie oneself down to an extreme that it is almost going to be impossible to operate. I think it is only fair that if in fact there is a possibility of infringement, that the proof should come from the other side. There is just one question for the Attorney General, I wonder if he can help in this. Under the EEC, as I understand it, it is possible to import anything from anywhere and monopolies are disallowed so that no matter who may have the agency in one particular area, somebody else is free to buy from anywhere and introduce it and there is no question of any price control or price inhibition by the supplier. In this case, this is what I do not understand, because of the copyright would it be possible for an individual to buy an authorised copy of the film, say, anywhere else, bring it here and then, somehow, pay for the copyright so that it would not be necessary to have to buy it just from Gibraltar where perhaps it might be possible through agency control for the dealer to

be forced to buy it here and therefore create a sort of monopoly which I do not think would be in the interest either of dealers or even more so of consumers who eventually would have to pay for it. I just wonder if he can throw any light on that.

HON CHIEF MINISTER:

Mr Speaker, the first interest we had in this Bill originally was to stop pirated films but not commercially pirated, that is, the rough copies that are made in the industry and not those that are made at a level where, in fact, as in many cases it has happened in England, I have a cutting here from The Times of the 7th February, where the pirate industry in Britain is said to be the largest in the world, it is so sophisticated that films like E.T. and Rocky III and Chariots of Fire were available months before release. And it says: "Extraordinary increases in the growth of video clubs serving more than 3 million households with films at £1 a night will be reported to a London conference today, and the conference has been called by the Institute of Trading Standards Administration, which represents 1500 Trading Standard Officers employed by Local Authorities. In the past year they have mounted a concerted attack on counterfeiting. It says that Video Cassettes are now available in the scale that the latest novels were through the national chain of Boots Libraries, the difference is that films on video can be obtained through Chinese Takeaway, Pet Shops, Filling Stations, Supermarkets and laundrettes and an official estimate has put the number of outlets at 25,000. That is what gives the pirate their incentive. A true economic figure for renting a video cassette would be £1.50 or £2.00 a night. The price is forced down by illegitimate material available at 75p or 50p in some cases according to the British Videogram Association. Counterfeiting costs the British Video Industry £200M a year endangering many thousands of jobs and causes incalculable losses to the Exchequer and Income Tax". What we wanted was to protect the rough piracy. I had the same experience as the Leader of the Opposition in respect of sound cassettes some years ago where the bodies representing them found a lot of pirated cassettes in town and when they were brought in the dealer who was bringing them showed that he was buying them bona fide from a dealer somewhere else. The original draft had a provision which we took away but which perhaps we might think about this instead of the other one which has substituted it, and that was: "It shall be a defence in any prosecution for a contravention of sub-section (1) if the defendant proves that the material content of the video tape or video cassette that is alleged to have been lent in contravention of that sub-section were not recorded in Gibraltar". We were trying to stop the piracy here. I do not know whether the Honourable the Leader of the Opposition has a copy of the proposed Bill in England which we might look at because in fact it is being promoted now. The Attorney General did not have one at the time, he brought this out of his own head, I think. I agree that it is rather dangerous to get oneself concerned with copyright law in a penal statute without seeing what is happening elsewhere. We are quite happy to

leave this Bill for the Committee Stage and Third Reading at the next meeting and allow people to make representations and take all these points into account.

HON J BOSSANO:

Mr Speaker, I am not convinced that the consumers need protection in this area or, in fact, want protection. If the result of protecting them is that they are going to be paying £1.50 or £2.00 instead of 35p I think they are not going to want it even less. I would have thought that the only thing that could be justified would be to apply the same criteria to a licence as is applied to every other licence under the Trade Licensing Ordinance and simply to put it in the Schedule.

HON MAJOR R J PELIZA:

What happens to people who run the clubs do they break the law because the dealer in the club is between the devil and the blue sea. If he wants to give cheaper cassettes to the consumer he really has to buy pirate films. If he doesn't he has got to buy the proper ones which are properly produced by the supplier. If you want him to break the law he can give it cheaper but the situation as we can see goes much further than Gibraltar, it goes to the producers all the way back, whether it is Hollywood or EMI in England or wherever it may be. It is not as simple as that.

HON J BOSSANO:

But he would not be breaking any law in Gibraltar unless this law is passed. I do not spend half the time watching videos, I am in meetings most of the time, but from what I know, it seems to me, that if one were to eliminate the pirate versions there would be very little left from what I have seen floating about. The Honourable Member was mentioning this business about this thing coming up on the screen saying this is not for public lending and so on. They all seem to say that. If that is an indication that they are pirate, then I can tell the Honourable Members that from the limited knowledge I have the place is full of pirates. I am not sure what is going to be left if this is put into the law unless we have mass prosecutions, I am not satisfied of the wisdom of proceeding with this, certainly, Mr Speaker, and I shall be voting against the Bill at this stage.

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 A J Canepa
The Hon Major F G Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes

The Hon A T Loddo
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Members voted against:

The Hon J Bossano

The following Hon Members abstained:

The Hon R J Isola
The Hon Major R J Peliza
The Hon J B Perez

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 be left for a subsequent meeting of the House.

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1983

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance (Chapter 131), 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 is a very simple Bill, it only contains two clauses one of which is the actual title and the second one which makes a very slight amendment to the actual definition of what is a pleasure boat. Normally, the wording has been pleasure boat or craft, this is referring to pleasure boats used at the seaside not being permitted to come within a certain distance of the sea shore except in specific designated areas so that they do not endanger bathers. But when this definition was actually promulgated several years ago, the new vessel which has appeared on the scene in the last two or three years,

namely, the Windsurfer, was not known. These windsurfers can move at quite a considerable speed and if they were to hit a bather they can give him quite a good knock. Therefore it is thought advisable that the term "pleasure boat or craft" should be widened to include surfboards. This, I think, is something that everybody will agree so that surfboards can be restricted in the same way as pleasure boats so as not to cause any harm to the ordinary bather swimming in the sea. I commend the Bill to the House.

MR SPEAKER:

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

HON G T RESTANO:

Of course one welcomes any legislation of this kind. However, in the same way as applies to pleasure boats and I have had occasion to mention this to the House before, I am not satisfied in the way that the rules are enforced. We have rules, we make laws but then we do not enforce them and I would like very much to know from the Minister whether he intends to enforce these laws, or the rules rather, in any different way than is carried out for pleasure boats and those rules are not enforced at all.

HON A J HAYNES:

Mr Speaker, it is a minor point but if we are here to extend the definition to include the latest novelty of the seaside, does this present definition include the nautical scooter that one sees scudding around or are we going to have another amendment to include that at a later stage?

HON ATTORNEY GENERAL:

I must apologise but I think the Honourable Member was referring to water scooters.

MR SPEAKER:

A new contraption which you now have which is a scooter on an engine which goes on the sea. You literally sit as you would on a scooter.

HON ATTORNEY GENERAL:

The sort of thing you see at Camp Bay or Catalan Bay. This is a very short amendment and the only reason it was necessary was that when I looked at the meaning of the word "craft" in certain dictionaries it didn't really cover a surfboard and so before we could proceed to enact rules on surf boards we had to come to the House with this amendment but if I can answer very shortly my own view is that a nautical scooter is surely a craft.

MR SPEAKER:

It is not for me to rule as to whether it is or it isn't, that is a matter of definition.

HON ATTORNEY GENERAL:

I would have thought craft is wide enough to cover that because you can get on it and not quite sit in it but appear to sit in it whereas a simple plank, a surfboard, by all the reputable dictionaries does not appear to be clearly within the meaning of the word "craft" and that simply is the reason why this Bill was recommended to the Government. The other point, and I am not entirely sure on this, but I did rather think, Mr Speaker, that the question of whether the Seaside Pleasure Rules had been enforced since their promulgation in 1981 had come before the House before and I have to check the record but there were cases where they were supervised in their performance, that is the matter I can look into, but as far as I know there is no ignoring of the rules. I come back to the point I made earlier on in relation to another Bill. Obviously there will be times when one has to take action and enforce the law but I think the existence of the law in most cases is sufficient to make sure that people do comply with it.

MR SPEAKER:

Does the Mover wish to reply?

HON M K FEATHERSTONE:

The only thing I can say further to what the Honourable the Attorney-General has said in answer to Mr Restano, I can check with the beach-keepers who are the first persons to supervise whether any pleasure craft is actually breaking the law. Should that happen his actual task is to fetch a policeman and then the person possibly would be either reprimanded or prosecuted. I will look into it to see that for the coming season a tighter system can be enforced.

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 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.

THE TRAFFIC (AMENDMENT) ORDINANCE, 1983

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. This, Sir, is also a very short Bill, the main thrust of it being in section 2 in which it says: "Section 55 of the Traffic Ordinance is amended by repealing paragraph (a)". Paragraph (a) of the Traffic Ordinance actually refers to the Transport Commission and it is specific that one of the powers of the Transport Commission is to advise the Governor on all matters referring to traffic on the roads. As was said, I think, earlier in the meeting when we were talking about the Transport Commission during answers to questions, the Transport Commission was set up in 1958 when there was a Legislative Council but there were no persons charged either with ministerial responsibility or no ministers as such and the actual body concerned with traffic was the City Council. The situation today is that there is a Minister in charge of traffic and it is rather invidious to have the power to advise on all matters referring to traffic vested in somebody other than the Minister and therefore the intention of this Bill is to transpose the power from the Transport Commission to the Minister. This does not, of course, preclude that the Minister, if he so wishes, may consult the Transport Commission on traffic matters at any time that he considers it advisable. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Yes Mr Speaker, although it is a very short Bill, we are opposed to the Bill mainly based on the remarks that were exchanged by myself and Honourable Members on the other side in relation to the functions of the Transport Commission. Mr Speaker, I would ask the Government to withdraw this Bill and then to come back with a Bill that brings up to date the functions in all aspects, the functions, duties and obligations of the Transport Commission. I don't think it is a good thing

to pass a Bill dealing with one aspect of the functions of the Transport Commission without dealing with all the aspects of the duties and responsibilities of the Commission. I don't think I had to say very much in question time. I did point out to the Minister the obvious undesirability of a situation where responsibility in respect of the grant of public service licences is vested in the Transport Commission by law and yet a practice has developed whereby it appears that the Ministers exercise that function and we get the situation where discontented taxi drivers or whatever, or the Gibraltar Taxi Association go to Ministers and make representations about how the Transport Commission should exercise its powers and the Transport Commission is content to sit back and ask the Ministers to give them directions as to how they should exercise these powers. The section that is being amended is precisely the section that deals with these matters. In Section 55, (a) has gone and it says "consider applications for road service licences forwarded to it under the provisions of this part and deal with such applications in accordance with the provisions of this part of the Ordinance". "Consider and determine any matter which may be referred to it under the provisions of this Ordinance". What we are doing is, we are saying by passing this amendment to the Transport Commission: "Alright, you don't have to advise the Governor any more on matters affecting traffic, we have a Minister". But, by implication, we are saying: "But your duties continue to be as stated in the other paragraph", when we know perfectly well, Mr Speaker, that they are not discharging those duties as a result of the practice or as a result of an arrangement or as a result of the historical evolution of elected government, whatever reason may be given, they are not exercising those discretions except when allowed to do so or when told to do so, or when they feel they can do so safely without incurring criticism. But the fact of the matter is that the pattern of this part of the Ordinance, what the law says is that any application for road service licences - I am not just talking about taxis here but private hire cars, or buses etc - shall be dealt with and shall be determined by the Transport Commission and that anybody who is dissatisfied with this determination may appeal to the Supreme Court. That is the scheme of the Ordinance but that is not what is happening and I can say that from personal experience. It is not what is happening and therefore I would suggest to the Government without pre-judging all the issues, I would suggest to the Government that what is needed is not to change this present law, the Government is going to have to come back anyway to change the Ordinance because the Minister did announce the change of policy under which there were to be allowed two drivers for each taxi and that will require actually an amendment of Section 64A of the Traffic Ordinance as I see it, so why not, Mr Speaker, come with a policy statement on the Transport Commission, their duties and powers, back it up with the appropriate legislative amendment and enactment, and get rid of it for good, Mr Speaker. Because another point, for example, so that as far as I can see in the Ordinance there is no ceiling on a number of taxi licences that there can be. The Transport Commission has a duty under the

Ordinance to consider every application that comes before it. It cannot make pre-judgements and say in an application: "Oh, well, we have been told by the Government that we are not to have more than 113 licences and as granting these licences would make it 114, we do not grant the licence". Because that has no legislative backing and anybody who got told that by the Transport Commission would be entitled to appeal to the Supreme Court and the Supreme Court would make the Transport Commission exercise their discretion in accordance with the law as laid down. This does not mean, Mr Speaker, that it is our view there should be no ceiling on taxi licences in Gibraltar, don't get me wrong. We think that there should be a ceiling on the number of taxi licences that are awarded but there should be legislative provision for it, it should not be left, Mr Speaker, to discussions in the highways and the byways, in meetings with Ministers, in meetings with members of the Opposition and in meetings with the Transport Commission itself and the Transport Commission itself who is meant by law to decide these matters taking the view of Ministers and other people before coming to a determination as they have to under the law. I would ask the Government to withdraw this section and to come back with a new Bill which brings up-to-date, if you would like to call it, brings up-to-date the functions of the Transport Commission, its powers and liabilities and, for example, in private hire buses or in taxis or etc, puts it in the law, puts ceilings in the law, puts a criteria to govern the Transport Commission's action. But you shouldn't have the situation, Mr Speaker, where you have got a Transport Commission and you have got ministers telling the Transport Commission, with no legislative authority to back them, telling them: "Now you do this, no more taxi licences for the moment, we are going to do this, we are going to do that". There should be a body that sits and considers the applications and has to sit and consider the application because that is what the Ordinance says. If we don't want that let us get rid of it but let us not come, Mr Speaker, with an amendment of the Traffic Ordinance which says that the Minister can do what he likes on traffic, he does not have to seek the advice of the Transport Commission. Let us get the whole subject of the functions of the Transport Commission, its duties and obligations, let us get that put right so that there is a system which can be put into work and let us put a ceiling on taxi licences in a legislative fashion. In the same way as we have in the law, and it has got to be in the law, that there should be two full-time drivers, let us bring amendments and let us say that there should be a limit of 120 taxi licences or 110 or 150 and then let the Transport Commission, within those limits that are imposed by the legislature decide on applications whether there is a case for a licence or not. But let us not have the situation, Mr Speaker, where people negotiate the question. I am sure that the Honourable Mr Bossano who I know represented the Taxi Association in representations they made with the Minister for Economic Development and Trade, I think it was, I think Mr Bossano went to that meeting. I don't know whether he went representing the taxis or representing the GSLP. He went representing the GSLP, worse still, so a political party went to see the Minister to tell them to ask the Transport Commission to give instructions to the Transport Commission, which is no

job of Ministers to do because the Ordinance says what they have to do. Doesn't the Minister agree that it is a highly unsatisfactory position. I know what the Honourable Member went to the Ministers about because it is the view of the Taxi Association, and they may well be right I don't say they are right or they are wrong, it is their view that there should be a limit, that there are enough taxi licences in Gibraltar and no more should be issued. There are other people who hold other views, there are other people who feel that because they have been full time taxi drivers for a number of years they should have the opportunity to own their own taxi and own their own licence that is another view, it may be right or it may be wrong. What I am getting at, Mr Speaker, is that to my mind there is a need to set upon black and white the rights and the wrongs of the matter and have a body to decide it and not allow the matter to be determined really, Mr Speaker, by political pushing and bargaining and so forth in an area that the law does not intend it should occur because under the law the Transport Commission are the people designated so, Mr Speaker, we are going to vote against this Bill not because we wish to derogate from the powers of the Minister, not because we want the Minister not to exercise these powers, we are quite happy that he should but because we feel that the Government should not just look at the point of the Minister but should look at the whole of the part of the Traffic Ordinance that deals with public service licences and so forth and deals with the functions of the Transport Commission and if it is out of date, bring it up to date and let us get it off the Statute Book and let it have this problem sorted out once and for all in a manner that I think can be satisfactory by all affected parties. Thank you, Sir.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

Mr Speaker, if the section that is going to be removed is the one that allows the Transport Commission to advise, what is wrong with having their advice. He is not required to act on it or to take it. I cannot understand why he doesn't want them to be there to advise him, surely, they might be able to advise something useful. What is wrong with that?

HON P J ISOLA:

The Transport Commission might complain if he acted without getting their advice.

MR SPEAKER:

Does the Honourable Minister wish to reply?

HON M K FEATHERSTONE:

The Honourable Leader of the Opposition has jumped on his hobby-horse quite rightly so and you have been very indulgent in letting him get away with referring to matters which are not really specifically dealt with in the Bill.

MR SPEAKER:

With respect, it is an amendment to the Ordinance.

HON M K FEATHERSTONE:

I would ask him to reconsider his intention not to vote for this Bill on my giving him an undertaking that within the next two months we will have a comprehensive look at the whole Traffic Commission section in the Ordinance and possibly come forward with a further amending Bill. I would like to get this through at the moment because there are many minor traffic points that one wants to get through quickly, the Transport Commission doesn't meet all that regularly, it is a little invidious to bring 5 or 6 men together if you just want to put a small piece of kerbing etc, so perhaps on my giving this assurance the Honourable the Leader of the Opposition will get his party to change their minds.

HON P J ISOLA:

Mr Speaker, despite the look of concern on the Honourable and Learned the Attorney-General's face, I accept the assurance of the Minister. We will now vote for the Bill.

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 be taken at a later stage in the meeting.

This was agreed to.

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) ORDINANCE, 1983

HON DR R G VALARINO:

Sir I have the honour to move that a Bill for an Ordinance to amend the Public Utility Undertakings Ordinance (Chapter 135) be read a first time.

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be read a second time. This Bill is concerned to do three things. First of all, let me apologise for the Explanatory Memorandum which contains certain figures which are wrong but do not form part of the Bill and therefore the Bill is correct as printed. This Bill is concerned to do three things. Firstly, a reduction in business and residential charges backdated to the 1st of January, 1983. The reduction in business charges is £10.71 and in residential charges of £7.80p. Both are in the order of a 37% reduction. That business rental charges will become £18.27p quarterly and residential charges will be £12.90p per quarter. This compares favourably with UK rentals which are at present £21 per quarter of business subscribers and £15.50p per quarter for residential subscribers. The free call allowance of 120 units will remain which effectively also reduces the rental by £4.80p. In reply to Question 203 of 1982, I mentioned that monthly advice notices for nine months would be sent in order to guide Government and consumers. Government has decided that after taking this early decision to reduce rentals, the continuation of monthly advice notes will only be for a further 3 months as from the beginning of the year - a total of six months. Secondly, the Bill proposes to reduce removal charges by £20 to £30 in part II of the Second Schedule to the Public Utility Undertakings Ordinance. It should also be made clear that note (ii) after item 25 obviously also applies to the reduced removal charge. Finally, and thirdly, to introduce a pro rata debate on rental where a phone is out of order from at least one month after the fault if reported. The period of one month has been considered by Government as a suitable starting point in introducing this rebate. Both the reduced removal charges and the pro rata rebate on rental will also be retrospective to the 1st of January 1983. These three proposed changes will mean a lowering of telephone charges to consumers and of decreased revenue to Government by over £250,000 in the year 1983. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON G T RESTANO:

Mr Speaker, to be able to judge the effects of lowering these charges one needs of course to have accurate figures on the local charges. I did ask in December what revenue had been received in October out of local calls and I was told about £12,000. I repeated the question at this meeting and I find that in the answer of the Minister he has stated that the revenue for local calls for December was £37,940. I don't know whether that is correct because in the same answer he said that the October figure was £30,223 when in December he said that the

figure was £12,000. Now I would like to know, first of all, because to be able to evaluate the reductions here we really ought to have figures. Here is a complete contradiction, one answer in December and one answer now for the same month with a difference of £18,000.

MR SPEAKER:

The general principles that we are debating now are as to whether the telephone charges should be reduced or not. That is the general principle. The amount by which it is to be reduced is a matter of detail which can be done at Committee Stage.

HON G T RESTANO:

Fair enough, Mr Speaker. I will reserve my comments until I have the information. We moved a motion in December and one of the things that we said was that the increases in charges had been excessive for local metering and the fact that only shortly, two months afterwards, Government has seen fit to reduce the charges of course vindicates completely what we said in December in the motion and whereby we brought the motion. I reserve my position until I get the figures and that goes on the first part of the Bill. Again, on the rebate where phones are out of order for at least one month after a fault is reported, I think we ought to know what pro rata rebate is intended and also why it is that it takes so long sometimes for telephones to be repaired so that precisely the Government has to bring in a rebate when the department has not been able to repair the telephones within what I consider to be a reasonable period of time.

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

HON DR R G VALARINO:

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

This was agreed to.

THE LAW REVISION (MISCELLANEOUS AMENDMENTS) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to make minor amendments to various Ordinances as part of the revision and consolidation of the statute law, be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Members of the House will I think recall that at the end of 1981, after it had been agreed that there should be a reprint of the laws of Gibraltar, an Ordinance was passed called the Revised Edition of the Laws Ordinance. The purpose of that was to confer certain powers on the person appointed for the reprinting undertaking who is of course Sir John Farley Spry and these were the normal powers that are given to a Commissioner for a reprint in order to enable him to carry out his task. In general terms the powers given by that Ordinance were what I would characterise or describe as editorial powers, powers to re-arrange the statute book, powers to make amendments, generally, that are not of substantive effect but are rather of a formal nature. But in any reprint undertaking it is necessary or it is desirable, I should say, in the course of that reprint to not only make such formal or editorial changes but also to make changes and improvements of a more substantive nature. Of course there is a fine line between what is a reprint and what eventually becomes a revision and in this House we have before discussed the pros and cons of a revision and the upshot or the result is that because of the importance of getting the reprints through and on to the books, the exercise is in fact a reprint which is less than a revision but even so it is still necessary to make a number of amendments, as I have said, and to do that it is necessary to come back to the House because if the proposal does not come back to the House substantive changes would be being made which did not have the endorsement of the House. For those reasons it has always been contemplated that there will be one or more, and I would say there will be more than one Bill entitled a Law Revision (Miscellaneous Amendments) Bill put to the House so that Honourable Members can consider changes that are proposed by the Commissioner and decide whether or not to endorse them. This, in fact, is the first of these Bills and as Honourable Members will see from the Bill it contains a number of amendments to different enactments. The point has been raised in this House before that one should avoid inter mixing different amendments in different acts but I am sure that in this case all members will agree that this comes under the short title Law Revision and therefore is not open to objection. At Committee Stage I propose to speak to each particular clause but there are one or two matters that I would like to emphasise as being of some importance. The first is contained in clause 2 of the Bill which, among other things, in paragraph (a) revives the limits for insolvency proceedings. I am sure members will appreciate that if this is looked at here, and the purpose of looking at it is to bring up to date the relative amounts because a lot of time has passed since the original Ordinance was enacted, it will also follow that the companies liquidation proceedings will

have to be looked at as well and this will take place in a subsequent law revision Bill. At the same time a number of other sections in different Ordinances have been amended to up-date references to the rates of fees to bring them more into line with the effects of inflation and over and above that there have been provisions to take account of changes or amendments to the general law in England and are followed through in this Ordinance. Mr Speaker, it may be appropriate for me to give a progress report on the state of the reprint and to explain why this Bill is now brought to the House. The tenders for the actual reprinting of the work have been called for and tenders have been submitted and that is a matter which falls to be considered. Once a tender is allocated the intention of the Commissioner is that he will programme the work to the successful tenderer in stages and he is at the point where very shortly now he proposes to put the first half, basically, nearly the first half of the work to the successful tenderer and later on in the year, I think the date he has in mind is June, another large instalment will go and then later on in the year, I think in September, the final instalment will go to the printer with a view to having the product finished in about March of 1984 and so the relevance of this Bill to that is that these are matters which the Commissioner is seeking to have cleared in advance of putting the actual publication work in hand. As I say, Mr Speaker, I propose to speak to the individual amendments at the Committee Stage which because of the detailed nature of the Bill will not be taken at this meeting of the House but rather at a subsequent meeting. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

I just want to clarify, I think I have got the answer. I assume that in the reprinting which that is carrying on, all these amendments will appear in their appropriate places in the various Ordinance, that is the idea?

HON ATTORNEY-GENERAL:

Yes.

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

HON ATTORNEY-GENERAL:

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

THE SUPPLEMENTARY APPROPRIATION (1982/83) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill for an Ordinance to appropriate further sums of money to the services 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 £964,041 out of the Consolidated Fund. The purposes for which this sum is required are set out in Part I of the Schedule to the Bill and detailed in the Consolidated Fund Schedule of Supplementary Estimates No 4 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 £136,152 as set out in Part II of the Schedule to the Bill and detailed in the Improvement and Development Fund Schedule of Supplementary Estimates (No 4 of 1982-83) which was also tabled at the beginning of this meeting. Sir, whilst Honourable Members will have an opportunity to discuss in detail the provisions sought in the Bill during the Committee Stage, there are one or two items to which I would like to draw attention at this second reading. Some 70% of the £964,041 out of the Consolidated Fund are covered by three Heads. The first, £288,000, is sought to meet the additional cost of fuel at King's Bastion and at Waterport. Under Medical and Public Health, of the £263,283 sought, £140,000 is to meet the cost of overtime payable as a result of a reduction in the conditioned hours of nursing staff. £62,000 is the cost of the revision of fees of Group Practice Medical Scheme contract pharmacists which is retrospective to the first day of January, 1982, and the cost of increases in the prices of drugs supplied under the Medical Scheme is £35,000. Under Head 20, Public Works Annually Recurrent, a further £121,000 was required for the additional importation of water following the prolonged drought which Gibraltar has experienced both this and last year. Mr Speaker, Sir, I commend the Bill to the House.

MR SPEAKER:

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

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 this Bill be taken at a later stage in the meeting.

This was agreed to.

COMMITTEE STAGE

HON CHIEF MINISTER:

May I suggest that we take the short Bills first through Committee Stage and Third Reading and leave the longer Bills for tomorrow. I suggest we take the Public Utilities Undertakings Ordinance, the Traffic, Trade Licensing and the Public Health.

MR SPEAKER:

The Public Utilities Undertakings Ordinance, The Traffic Ordinance, the Trade Licensing (Amendment) Ordinance, and the Public Health (Amendment) Ordinance.

THE TRADE LICENSING (AMENDMENT) BILL, 1983

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

Clause 2.

HON A J CANEPA:

Mr Speaker, I have the honour to move that clause 2 of the Bill should be deleted and that consequentially clause 3 should be renumbered clause 2 and clause 4 should be renumbered clause 3.

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

Clauses 2 and 3 (old 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 PUBLIC HEALTH (AMENDMENT) BILL, 1983

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

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

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) BILL, 1983

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

Clause 2.

HON G T RESTANO:

I would like to know what are the correct figures for local telephone charges because I have been given two different sets of figures.

HON DR R G VALARINO:

On this particular subject let me put the Honourable Member straight. Initially, and after rechecking the amount for October, 1982, this was found to exceed just over £10,000 and the figure for November, 1982, was found to be approximately £18,000, this is as far as local calls are concerned. However, on remonitoring it then became obvious in mid-December that 5 meters had recycled during the month of October and 4 meters had recycled during November. These recycled meters were on the Forces lines due to the high usage and this was not expected. Each recycling is an extra £4,000, the meters have 5 digits. Therefore the real total for October was the initial £10,000 plus the 5 meters recycled at £4,000 which is £20,000, making it a total of £30,000 and for November it was £18,000 plus 4 meters recycled at £4,000 which was £16,000, a total of approximately £34,000. Monitoring has continued and all high calling meters are re-checked periodically. I must stress that the recycling of these meters happened on Fortress lines of which we have six due to the high level of calling rate not only local but they have international calling rate and this was not expected by the Department. What the department is now going to do is to change the present five digit meters of these lines by 6 digit meters and about 10 meters will be changed in all.

HON G T RESTANO:

If the Honourable Member will give way. When he says recycling, could he expand a bit. Who is paying for this, is it that someone is paying for something which they have not used? The consumer is paying?

HON DR R G VALARINO:

Yes.

HON G T RESTANO:

So this is actual revenue, real revenue is £37,940.

HON DR R G VALARINO:

Mr Chairman, Sir, the meters are 99999 and the recycling took place and went over this figure and then when it was read it was taken for granted that the figure was less. On remonitoring it was obvious that the meter had recycled and this is why the figures were higher than was originally estimated. Unfortunately, by the time we had the answer it was too late for the December meeting of the House where I mentioned the figure of £12,000 to the Honourable Member. I did say in my intervention in the House: "The correct and proper approach is to look at the revenue obtained from local call charges and also at any revenue increases that may occur in later months through international traffic, monitor this, adjust accurately and advise as to the size of possible reductions in rental to both businesses and domestic consumers in the future and, in fact, this is what we have done and we have reduced both by approximately 37%.

HON G T RESTANO:

Mr Speaker, now that I have the correct figures it seems to me that whilst it is always welcome to have a reduction in charges I don't think they go far enough. It is quite clear that it is about £240,000 or £250,000 which they are giving back but they are taking in about £420,000 or over so the people in fact are being taxed by nearly £200,000 extra per year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They are not being taxed, they are paying for a service.

HON G T RESTANO:

Well, they are paying for a service which was free before October and it was because it was decided to charge in October and the Minister has just confirmed that we were led to believe in December that the amount would be far less, it is now over 3 times what we were led to believe in December. But, anyway, the point is that per annum the charges to the people of Gibraltar is nearly £200,000 even though the Government is getting back £250,000. We don't think it goes far enough, however, of course we will support it because something is coming back to the people, that is, half a loaf is better than no loaf at all but the Government should have been considering giving back the whole loaf.

HON MAJOR R J FELIZA:

Mr Speaker, I am very surprised at the attitude of the Government. We have been proved right already that last time they were you might say profiteering and now they intend to carry on profiteering. Of course it is profiteering. If you ran that as a business as you should and if these were shareholders instead of the Government putting the money, God knows where it goes, probably it goes down the drain, it would be profiteering, I am really very concerned about this because we only heard

yesterday the Minister for Trade asking the private sector to cut down their margins to make the whole place as efficient as possible to be able to compete with an open frontier and here we come and we take no notice at all, no indication of what the total amount is going to be at the end of the day and when we say that perhaps they are overcharging there is no explanation. What they should have done is having seen that last time they did overcharge the public, whatever the error might have been it was obvious the whole calculation was out, whether it was recycling or not recycling, it was obvious that they were overcharging. All I am saying is, if you are going to come to this House and going to admit that you overcharged before, on this occasion at least if you come here and give us a full account of the amount that you are bringing down the rates and why you are doing it and what you expect at the end of the year to make or not make, then we would be satisfied with this figure but at the moment you are literally asking us to sign you a blank cheque. I would like to hear the Minister who is responsible and it is he who should answer to tell me now, if he had done his homework, if he can tell this House how much money at the end of the day, at the end of the year what the balance of this undertaking is going to be. I hope the Minister will give me an answer.

HON A J HAYNES:

Sir, once on the subject of previous questions and the information given I would note that in Question 203 to which the Minister has referred, which is the first question in which we invited Government to give us information as to the possible earnings from the metering of local calls, we were told in a supplementary to that question that the projected earnings in local calls for the whole of the first quarter would be £39,000 and those £39,000, Mr Chairman, were a 20% increase over the then revenue for local calls. The figure, in fact, Sir, for the earnings in local calls has not been the 20% increase to £39,000, it has been a massive increase to £102,000. The estimated earnings has been completely incorrect and as such they have done what we said they were going to do. They have caused an unrealistic burden on the people of Gibraltar. We also asked them, Mr Speaker, at that time because they had indicated earlier that they were considering a reduction of the rental, we asked at the time whether they were going to reduce the rental by the amount of the increase in revenue and we were told that that depended on what the actual increase in revenue was. We have now heard that the increase in revenue was astronomic, instead of being the 20% increase it is over 100%. It is, however, apparent to me that the reduction in the rental from £28 or £29 to £18, is not reflected in the earnings so we are still having a system which is, as I have said, burdensome on the public and which the Government are using to finance other ventures.

HON CHIEF MINISTER:

How can the Hon Member say that. That is ridiculous.

MR SPEAKER:

The Public Utilities Undertakings are not used for the purposes of general revenue.

HON A J HAYNES:

But I would like, Mr Speaker, to know what the criteria used in assessing this reduction was and I would be happy to have that information from the Minister.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, we are not profiteering, we are not making large profits. The estimated deficit on the Telephone Fund as at 31st of March, 1983, is nearly £400,000 and the projected deficit as at the 31st of March, 1984, will be some £640,000 and it is only after that period that over the next three years the projected deficit begins to drop down and this is because of the high cost of the capital charges and interest on putting in the IDD system. No way is the Government profiteering and this will be quite clear when the estimates for 1983/84 are put to the House and the House sees the Telephone Account.

HON A J HAYNES:

Mr Speaker, does this mean that when the capital cost of the IDD installation has been met that we will have further and substantial reductions and are these estimates as reliable as the estimates we were given three months ago which are hopelessly inadequate and are the figures that we are going to be given going to be slightly more conscientious in their manufacturing than they have been till now?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I think first of all that the House underestimates the difficulty in projecting what amount of revenue is going to be obtained from local calls. This was extremely difficult to do. The fact that there was the recycling problem in October and November which caused my colleague the Honourable Minister for Municipal Services to give a wrong figure to the House at the December meeting I think cannot be helped. I was absolutely horrified when I saw the figures for October and realised that we were getting so small amount from local revenue. The projections that I have just given of £400,000 deficit at the 31st of March, 1983, it would have been well beyond that had revenue continued on that figure. Secondly, the Honourable and Learned Member opposite has just enquired whether at the end of the 5-year period when we expect to be running into a surplus, we will be able to cut charges further. That will depend very much on whether the Government of the day decides that it will spend more money on improving the telephone service. It may be that you can cut charges or you can improve your service.

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

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

THE TRAFFIC (AMENDMENT) BILL, 1983

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

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

The House recessed at 8.00 p.m.

THURSDAY THE 24TH FEBRUARY, 1983

The House resumed at 10.45 a.m.

Committee Stage continued.

THE IMMIGRATION CONTROL (AMENDMENT) BILL, 1982

Clause 1.

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that in clause 1 the figures "1982" be deleted and the figures "1983" be substituted therefor.

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I have five amendments to this clause but only one of them is of any substance and I would like to speak to that. The amendments which I move is first to insert after the words "if but only if" in the new subsection 2(2) the words "at least one of the following criteria is applicable to him and". Put like that it probably doesn't make sense to anybody and I would like to explain what the effect of that amendment is. In doing so I want to re-cap on the purpose of the whole Bill which is to carry through the consequences of the British Nationality Act, 1981, by defining in Gibraltar law who is a British dependent territory citizen having a connection with Gibraltar. The whole

point of the Bill is to spell out what amounts to a connection with Gibraltar. I am sure Honourable Members will agree with me that it is important not to go too far in defining that, it is better if anything to be cautious at first and to expand it in the fullness of time rather than to go too far at the outset and indeed if one considers the British Nationality Act, you will see that the main Act was passed in 1948 but over the years there were various particular amendments passed to gradually extend the provisions relating to nationality as new situations have arisen. I have been very conscious in preparing this Bill of the need not at the outset to define what is the connection too widely. As the Bill now stands before this amendment will be made, there are detailed a number of qualifications which are elements in obtaining citizenship and if they apply to a person then they will give him the necessary entitlement to say that he has a connection with Gibraltar. If only one applies and that is the way he got his citizenship, then that is sufficient. If more than one applies to him he must satisfy each of the requirements. That is how the Bill stands now but although it is very difficult to conceive of a case where a person would have citizenship and yet none of these paragraphs would apply to him in my own mind I think it is possible there may be such a case and I think it will be unsafe not to have a further qualification and a further qualification is what I am proposing in the amendment. The further qualification is that before you can invoke this new subsection (2) you must be able to show that at least one of the qualifications applies to you. I hope I have been clear, Mr Speaker, because it is a very complicated matter but the upshot of it is, if I can underline what I said before, that I am concerned that we shouldn't at the outset define what is the connection too widely, I think it is better to be safe and to look at the thing later on if we have to. That is the point of this particular amendment and I so move.

MR SPEAKER:

I would suggest perhaps since you are moving amendments to the same clause that you move all the amendments together.

HON ATTORNEY-GENERAL:

Mr Chairman, I have in paragraphs (b), (c), (d) and (e) there are in effect three other amendments. They are all of a very minor nature. In paragraph (b) to omit the words "is at any time" and substitute the words "at any time after commencement is". If I can briefly explain that, this is the case where the citizenship of one of your parents is a material qualifying factor and it is the citizenship after the commencement of the British Nationality Act, 1981, that we are talking about where the citizenship of a parent before the commencement of the Act is a factor, that is dealt with in a subsequent paragraph (k) so this really serves to carry into fuller effect the purpose of the paragraph. The third amendment is to omit paragraph (e) and to re-letter the remaining paragraphs accordingly and that is simply because this is a long subsection and it was very hard to condense it but in the time between having the Bill introduced and this Committee Stage, I realised that it would be possible to reduce the number of para-

graphs. What is in paragraph (e) is not being taken out of the Bill, I am simply going to condense it with what will become a new paragraph (g) subsequently. That is merely to reduce the length of the Bill, as it were, by condensing two paragraphs into one. I therefore come to the fourth amendment in paragraph (d) of my motion and that is in paragraph (g), as re-lettered, which is (h) in the present Bill, to omit the word "residence" and substitute "the residence or presence of any person". That will then subsume both what is in present paragraph (h) now and also what is in the present paragraph (b). And, finally, Mr Chairman, in new paragraph (h), as renumbered, again there is a need to distinguish after commencement rather than before commencement where the citizenship of a spouse is a qualifying factor and my amendment is in paragraph (h), as re-lettered to insert after the words "any time" the words "after commencement". We are talking about citizenship after the 1981 Act came into operation. Mr Chairman, I beg to move.

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

HON A J HAYNES:

Mr Chairman, there are two questions, really. I would like to know whether the amendment will affect in any way or the Attorney-General's interpretation of the hereditary powers to be given to the Gibraltarians to pass on British citizenship and the other matter is since we are talking of a right that the Gibraltarian has to adopt British citizenship, are we talking about a right which one acquires after majority and if so why is there nothing in the Bill to accord this right or associate it with an age. But mostly, Mr Speaker, I would like to know whether the Attorney-General is satisfied that a Gibraltarian who now opts for British citizenship is not going to be precluded from passing on this right through himself to his heirs and I would like to know whether the Attorney-General's interpretation is that it is something which is passed on or something which is acquired by virtue of being a Gibraltarian. So that if a Gibraltarian who adopts British citizenship then moves away from Gibraltar and lives in a foreign country, the position then would be one of some doubt and I would like to have clarification on that point.

HON ATTORNEY-GENERAL:

Mr Chairman, could I ask the Honourable and Learned Member if he could expand a little on the last point because as I understand the thrust of the point is a concern that if a Gibraltarian leaves Gibraltar and settles somewhere else somehow he may lose his rights. I don't know whether I understood that correctly.

HON A J HAYNES:

Is nationality now that it is given to us in this form, is it a right which is in the person, a right which he can pass to his

heirs like an Englishmen can, or is it a right which is purely defined and dictated to by the status of Gibraltar, the registered Gibraltar. This concerns a query which I have had from Gibraltar living outside Gibraltar who wanted to know.

HON ATTORNEY-GENERAL:

Mr Chairman, this particular Bill doesn't determine the status of citizenship or nationality although I think it is intimately related with it but it doesn't itself lay down the various types of status which are so far as Gibraltar is concerned, I think one can say they are threefold. Two statuses by virtue of the British Nationality Act and one status by virtue of the Gibraltar Status Ordinance. Under the British Nationality Act Gibraltar is entitled to register as British citizens, that is one of their options. Once they are registered as British citizens, how they hand down that citizenship will depend on the rules that the general principles of Part I of the British Nationality Act governing transmission of citizenship where you acquired it by registration. I would need to take time to look into the various circumstances in which you can transmit your own citizenship if you have acquired it by registration as distinct from birth or naturalisation but my understanding is that once you have registered there is no difference between registration under Section 5 and registration under any of the other sections unless a particular section gives him further rights. In principle, as I see it, you are then a British citizen, you have acquired that citizenship by registration and everything else flows from that. Of course, quite apart from citizenship, Gibraltar is entitled under Part II to British Dependent Territory Citizenship and there how you transmit it depends again on the way in which you acquired it, whether you acquired it by birth or you acquired it by registration or you acquire it by naturalisation. I am quite confident that there is no difference in principle between the ways in which a person can transmit Part II citizenship and can transmit Part I citizenship. What I am really saying is that the only point I would like to look at is Section 5, that the special provision in Section 5, although I am pretty certain that once you have registered under Section 5 you are the same as any other citizen who has obtained citizenship by registration. I can see nothing in the British Nationality Act and certainly nothing in this Bill to limit the ordinary rules that apply to the transmission of one's nationality or citizenship. I would just like to emphasise that what this Bill is doing is imply saying that once you have a status, once you have the status of a British dependent territory citizen, Gibraltar wishes to determine which of the people having that status can be treated, to use the expression as "Gibraltar belongs" so this is really a Bill defining what amounts to a Gibraltar belonger. Not exhaustively defining it because the Immigration Ordinance already says that Gibraltarians - and there it is using the criteria of the Gibraltar status Ordinance - are belongers so that is one way in which one can become a belonger. The other way if for some reason you cannot establish your belonger connection under the Gibraltar Status Ordinance that is to say "but nevertheless I am in any event a British

dependent territory citizen having a connection with Gibraltar by virtue of this definition". So it is really extending the class of Gibraltar belongsers and of course the important consequence of that, the immediate consequence of that, is that anybody who comes within this status has the right to come and reside in Gibraltar. It is a right on their part, it is a responsibility on Gibraltar's part. I think it is a very important responsibility to assume because I think it shows that Gibraltar is carrying through the responsibilities of citizenship even though that citizenship is only defined in general terms as a British Dependent Territory citizenship, this is really making it concrete, so far as Gibraltar is concerned, it is really the application to Gibraltar of it.

Mr Speaker put the question in the terms of the Hon the Attorney-General's amendments which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

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

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

THE PUBLIC SERVICE COMMISSION (AMENDMENT) BILL, 1982

Clause 1.

HON ATTORNEY-GENERAL:

Mr Speaker, I would like to move that the figures "1982" in sub-clause (1) be deleted and substituted by the figures "1983" and that the word "January" in sub-clause (2) be deleted and substituted by the word "March". Can I take the opportunity to speak to clause 1 on the general aspects of the Bill?

MR SPEAKER:

Most certainly.

HON ATTORNEY-GENERAL:

When this Bill came up in the House at the December sitting, I think two important points were raised by the Opposition. The first was that this Bill started off simply as a re-drafting exercise because we wanted to be able to prepare some regulations made under the Constitution and the convenience to have all the provisions or so many of the provisions as were apt put into those regulations and those regulations are really intended to deal with the procedure of the Public Service Commission. The point of the amendment was simply that, a re-drafting exercise, so that when the members of the Commission or people dealing with the Commission wanted to pick up the procedural

provisions they could go to one set of regulations rather than have to look at the Constitution and Regulations and the Public Service Commission Ordinance. But the point was taken in the House that the Regulations are made under the Constitution and therefore would not be brought before the House whereas at the moment some of the matters which we were proposing to take out of the Ordinance and put into the regulations are matters before the House and therefore the House can from time to time review them. I certainly wouldn't want to subordinate a consideration like that to what was really a drafting consideration, a consideration of presentation for convenience, and my own feeling on the matter is that it is really a matter for the House how it feels about the whole thing. It could be done in one or two ways, it could either do everything in an Ordinance or we could leave this proposal as it stands which means that we would be using regulations to do a number of things. As I say, I think it is very much a matter how the House feels about that but were we to do everything by an Ordinance it would not, in my view, be convenient to amend this Ordinance because we would really have to rewrite a new Bill, in other words this Bill would have to lie and we would have to bring in a new Bill because there would be so many amendments that it would just be too difficult to go through this clause by clause and change it. My own view would be to do another Bill. In considering whether members really feel that it is important to retain these matters in an Ordinance, I would ask the House to consider that at the moment under the relevant section of the Constitution, which I think is Section 72, it is quite clear there that this House can make Ordinances dealing with the powers and functions of the Public Service Commission but what I am really saying is simply this that on the one hand I think it is a matter for the House if members feel that they do not want to see powers transferred out, well, obviously, that is that, but members might like to consider that already the powers of the House in respect of the Public Service Commission are in fact recognised in Section 74, subsection (5) of the Constitution. As I say, Mr Speaker, on this I don't myself have strong views, I think it is a matter for the House but were the view to be taken that the powers were not to be transferred out then I think what would be called for would be a complete new Bill rather than to try and amend this one. The other point was also a substantive matter and that was whether or not it is appropriate that the Government should be able to rely on the statutory requirement in section 15 of the present Ordinance to avoid having to produce documents in Court. The Honourable and Learned Leader of the Opposition made the point that we should consider whether the Crown should not have to rely simply on the ordinary common law rules of privilege. He was therefore saying what it was necessary to go further and say that in addition to those ordinary rules on privilege the documents concerning the Commission may be withheld unless the Deputy Governor consents to their production. Well, this is a matter which I personally think has - I am speaking personally on this - has a great deal of force on it. I think there is a strong case for saying that Crown privilege should be common law Crown privilege and it should not be necessary to have an additional statutory provision for privilege but, Mr Speaker, that is an amendment not only of sub-

stance but is really a point which was not within the original schedule of this Bill when it was drafted. It arises because we are amending the section but it is an amendment which we would need to address quite separately and if this Bill were to stand what I would prefer to do would be to leave the section as it is on the understanding and indeed on the undertaking that I would put a paper to Government for consideration of a further Bill to deal with the question of how one handles Crown privilege in this context. If that were adopted I should qualify my undertaking, it is not for me to say Government will agree but I would certainly put my views to Government on it.

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

Clauses 2 to 8 were agreed to and stood part of the Bill.

Clause 9.

HON P J ISOLA:

Mr Speaker, with regard to clause 9, I take the point made by the Honourable and Learned Attorney-General on this. We don't like this clause but we would vote however in favour of it in view of his undertaking but I would like the Honourable and Learned the Attorney-General to give us an assurance or an indication that although I can understand it will not be for him to decide the matter eventually but to bring to the notice of the House when a decision is made one way or the other.

HON ATTORNEY GENERAL:

Certainly, Mr Chairman. Can I make it clear what my undertaking would be. Speaking personally as a lawyer my own view is that there is clearly a strong case for arguing that the whole thing should depend on the common law of Crown privilege and I will put my views to the Government. It is a matter for the Government, of course, to come to a view on and I will certainly also undertake to report back to the House. I just want to say one thing. It may be that during the course of discussion in the Government somebody throws up a point which is a reason why it should be retained so I am leaving myself open to that extent but certainly I will report back.

Clauses 9 to 11 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1982/83) BILL, 1983

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund (No 4 of 1982-83)

Item 1 Head 1 - Audit was agreed to.

Item 2 Head 3 - Education

HON P J ISOLA:

On education. Is this long term leave of absence of 17 qualified teachers an unusual situation that there should be so many on long term leave and are they all on maternity leave?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I think there were about 14 or 15 maternity cases. It might be cheaper to give them the pill.

HON P J ISOLA:

No, I do not go along with that. What is the maternity leave?

HON MAJOR F J DELLIPIANI:

It is I think 3 months before or two months afterwards, I am not sure.

HON A T LODDO:

Mr Chairman, on wages. The vote says: "To meet cost of additional staff engaged for Westside Comprehensive School. 3 cleaners and 1 labourer." Will this staff be sufficient to meet the needs of the extended use of the gymnasium after hours or will Government require additional funds for wages for cleaning staff in this respect.

HON MAJOR F J DELLIPIANI:

Once we come to some kind of agreement as to how much use the public can make of it, it will be on the advice of the Management Services. I am not in a position to say because it hasn't really been used after hours yet to what extent the school will need cleaning. Obviously, the gymnasium is a place which requires a lot of very careful maintenance to protect it for the future. I cannot really say at this stage just what the implications are because there hasn't been as yet any use by other bodies after hours.

HON A T LODDO:

Mr Chairman, it is obviously Government policy to allow the use of the gymnasium after hours and it won't just be the gymnasium it will be the toilets and the changing room facilities and you will be needing cleaners and maintenance. Does this mean, in fact, that once this policy is implemented of allowing the use of the gymnasium after hours, you will be asking for more staff and more in wages or is it already taken into consideration when this was prepared.

HON MAJOR F J DELLIPIANI:

No, this has not been taken into consideration.

HON A T LODDO:

This is merely for the school now so you will need more staff?

HON MAJOR F J DELLIPIANI:

We might.

Item 2 Head 3 - Education, was agreed to.

Item 3 Head 4 - Electricity Undertaking

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, before the committee looks at this I must apologise that owing to a fault in my office for which I am personally responsible the figures on the fuel became transposed and they should read King's Bastion Fuel, original £1.8m and the amount now sought £96,200 and the Waterport Power Station the original token vote was £100,000 and the amount now sought is £191,800. I am afraid it is a fault that arose in my office now and I apologise.

HON G T RESTANO:

Mr Chairman, may I have an explanation for the necessity of having a Higher Executive Officer for the Waterport Power Station for six months?

HON DR R G VALARINO:

Yes, Mr Chairman. This new post was created on the recommendation of the Committee of Enquiry, Sir. He is the Secretary of the Steering Committee and his main involvement is with matters arising and connected with Waterport Power Station. He is also connected with stores, Sir.

HON G T RESTANO:

What will his functions be there?

HON DR R G VALARINO:

Well, really, Mr Speaker, his functions is to support the establishment of the Waterport Power Station administrative personnel.

HON G T RESTANO:

Is he the only Government employee at the Waterport Power Station?

HON DR R G VALARINO:

Mr Chairman, Sir, no transfer has as yet been made. He is still resident at King's Bastion except that he is earmarked for Waterport Power Station and all the matters he deals with at King's Bastion are related to the Waterport Power Station involvement.

HON G T RESTANO:

Was not one of the recommendations of the committee enquiry that the City Electrical Engineer should go immediately at that time and from there onwards to the Waterport Power Station and why has that not been done?

HON DR R G VALARINO:

Mr Speaker, with all respect to the Honourable Gentlemen opposite I don't think that has got any bearing on this question, if I may say so.

MR SPEAKER:

We allow a fair amount of latitude since we are in Committee.

HON DR R G VALARINO:

Though the City Electrical Engineer is resident at King's Bastion he spends a great deal of time at Waterport Power Station.

HON G T RESTANO:

Who else spends a lot of time at the Waterport Power Station of Government employees?

HON DR R G VALARINO:

On the administration side the City Electrical Engineer, the Deputy City Electrical Engineer and HEO.

HON G T RESTANO:

Can the Minister say how many people are involved and what sort of time do they spend there, do they spend most of their time there or half of their time?

HON DR R G VALARINO:

No, Sir.

HON G T RESTANO:

No, Sir, what?

HON DR R G VALARINO:

No, Sir, I cannot say.

HON G T RESTANO:

Doesn't the Minister know?

HON DR R G VALARINO:

I haven't got the information with me, Sir.

HON G T RESTANO:

Mr Chairman, we are being asked to approve \$4550 for a HEO to go to the Waterport Power Station for six months and we are not really being given any full explanation. One specific officer who, it is said, follows the recommendation of the committee of enquiry but the committee of enquiry brought a lot more recommendations concerning the Waterport Power Station. I think it is only natural that we should want to know precisely because the Minister has not given a good explanation. He has said administratively, what does he mean administratively?

HON DR R G VALARINO:

Mr Chairman, Sir, this is one specific post we are seeking funds for which is an HEO. The administrative officers to which I referred to were mainly the City Electrical Engineer and his Deputy. I can see that as far as regards this item no further question can arise, the committee of enquiry report said a number of things which are being implemented and I must say at this stage that I fail to see why the Honourable Member should be so inquisitive since they never helped the committee of enquiry.

MR SPEAKER:

The Hon Member can be as inquisitive as he is entitled to be. That doesn't entitle him to get information which you haven't got.

HON DR R G VALARINO:

This is for one specific man and as to any other matters arising out of this business I certainly do not have the necessary information.

MR SPEAKER:

Perhaps I might clear the matter. What you are saying that you need extra money for one particular additional post, that whatever extra staff may be in the Waterport Station will be by means of transfer of existing staff. Is that the position?

HON CHIEF MINISTER:

This is the implementation of one of the aspects of the recommendations of the Committee of Enquiry.

HON G T RESTANO:

Mr Chairman, he still hasn't given us the functions. He says that the man is going there because of the recommendations of the Committee of Enquiry. He has told us that he is the Secretary of the Steering Committee but what is he going to do at the Waterport Power Station for six months?

HON DR R G VALARINO:

Mr Chairman, administrative support to the City Electrical Engineer.

HON G T RESTANO:

What exactly does he mean by administrative support? That could cover a multitude of things.

MR SPEAKER:

I presume he will be the man at the Waterport Power Station responsible for the administration and directly reporting to the City Electrical Engineer.

HON G T RESTANO:

But how is he going to administer, Mr Chairman, if the Government haven't yet taken over the Power Station?

MR SPEAKER:

Perhaps that is a question you may wish to ask.

HON DR R G VALARINO:

Mr Chairman, he will help in drafting papers, keep accounts and all matters of the nature in which an HEO is involved in Government.

HON G T RESTANO:

But, Mr Chairman, what accounts can there be if the station has not yet been taken over by the Government, what accounts is he going to run?

HON P J ISOLA:

I think the Minister said that this follows the recommendation of the Committee of Enquiry. Well, I am looking at the recommendations of the Committee of Enquiry and I find no recommendation recommending this. Can the Minister perhaps, since he has told us it is a recommendation of the Committee of Enquiry, as I have got the report in front of me could he tell me which recommendation he is referring to?

HON CHIEF MINISTER:

I haven't got the Committee of Enquiry's report in front of me but I seem to recall and it is a matter which has been the subject of considerable representations by the City Electrical Engineer, that he has not had sufficient administrative support and that he has had to be concerned with a considerable amount of administrative matters which have taken him away from the more technical matters for which he is much more qualified and better to be able to devote having regard to the problems facing the new power station.

HON P J ISOLA:

Mr Chairman, I thank the Chief Minister for that explanation but I am disturbed that the Minister should tell us this appointment has been made as one of the recommendations of the Committee of Enquiry and as I can see it, I have got it in front of me, I read paragraph 15 through twice, I may have made a mistake, but I see no recommendation for the appointment of a Higher Executive Officer to the Electricity Department. What I do see are a lot of recommendations none of which appear to have been implemented, a lot of recommendations about how it should be sorted out, what I do know that we are voting and I can now remind the Minister that it is in the Hansard, almost £4,000 a week for Mr Edwards and actually my calculation, Mr Chairman, of the last time that we voted is that the six weeks are up and that the Minister possibly should have come here for more money to continue being able to pay Mr Edwards. What I am concerned is that the Minister should tell the House that this appointment is following a recommendation of the Committee of Enquiry and then not being able to tell us which recommendation or which paragraph it is and I tell him that I cannot see any such recommendation in the Committee of Enquiry Report.

MR SPEAKER:

Perhaps the Minister would like to reply to that.

HON DR R G VALARINO:

Mr Chairman, I haven't got a copy of the Report.

HON P J ISOLA:

I can lend my copy to the Minister.

HON DR R G VALARINO:

There are two copies, there was a preliminary copy and a full copy. I wonder whether the Honourable Member opposite has got both copies.

HON P J ISOLA:

The one I am reading from is the urgent one, the Interim Report, that's the one.

MR SPEAKER:

If the Honourable Minister is quite satisfied that the statement he has made is correct that is the end of the matter.

HON DR R G VALARINO:

Yes, Sir, I am quite sure that this was recommended but there were two reports, one was the Interim Report and the other one was the full Report. I would be grateful if the Honourable Member would let me have both then, possibly, I could show him.

HON P J ISOLA:

It is the Interim Report I am looking at.

HON CHIEF MINISTER:

The main recommendations regarding the structure and so on are incorporated in the second report. I am sure that that is the case.

HON G T RESTANO:

Can the Minister say why it is for a period of six months. Does he not expect to take over the Power Station before six months.

HON DR R G VALARINO:

The six months, Mr Chairman, is up to the end of the financial year.

HON G T RESTANO:

Mr Chairman, under the King's Bastion fuel which is broken down into cost of fuel and generation levels. Can we have an explanation as to what generation levels mean?

HON DR R G VALARINO:

The increase in the generation levels, Sir, in the unit generation at the time that we prepared the paper was in the region of 6.54%. This is probably now much higher because last weekend we had an increase of 22% in generating levels over the previous week last year. At the end of the year we will probably find that the increase in units generated will be well over 7%

HON P J ISOLA:

Mr Chairman, what puzzles me about this vote of increases in cost of fuel is that for the last three months we have been hearing of fuel prices going down so why is it that Gibraltar pays more? On the spot market fuel prices have been going down for many many months quite apart from the reductions officially made does the Government not buy its fuel through the spot market or is it paying the normal prices of Opec and so forth because as I understand it in the spot market fuel prices are \$4 and \$5 a barrel less, not now they have been so for some months.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We buy through Shell, obviously, Mr Chairman. There was a slight decrease in October which lasted only a month and then the cost of marine diesel went up by about 5% and the recent decreases have not worked their way through here because they buy in fairly small packets and they haven't reached that market.

HON P J ISOLA:

Mr Speaker, could I ask the Honourable the Financial and Development Secretary to take this up with Shell because there is no question about it in my mind that although the official prices have been kept until now when they have actually gone down but have been kept more or less at the Opec levels for the last six months, it is a well known fact that in the spot market the prices have been going down consistently for the last six months and I am sure that Shell must be buying in the spot market and not buying at official Opec prices and therefore some of the benefits should be passed on to the purchaser of the fuel, the Gibraltar Government. Could I ask him to take that up?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Certainly, Mr Chairman.

HON CHIEF MINISTER:

There is also the question of the devaluation of the pound against the dollar and the spot market is on dollars.

Item 3 Head 4 Electricity Undertaking was agreed to.

Item 4 Head 5 - Fire Service

HON G T RESTANO:

On the Public Utility Costs. Can the Minister explain how in all other departments Public Utility Costs have gone up and yet this one with these extra monies being appropriated, will achieve at the end of the day the same expenditure as the previous year. Are they spending less?

HON DR R G VALARINO:

Mr Chairman, Sir, it is comparable to last year. In fact at the time we were doing the Estimates this was underestimated by Treasury and the amount now sought is comparable to the previous year's expenditure. We have managed to keep it down.

Item 4 Head 5 - Fire Service was agreed to.

Item 5 Head 8 - Housing

HON W T SCOTT:

Mr Chairman, on subhead (5) Upkeep and Operation of Centres. What Centres and where?

HON J B PEREZ:

Mr Chairman, there are three; North Gorge, known as the Filipino hostel and there are two in Town Range, one I think is 15 Town Range and the other one which is commonly known as "La Cueva".

HON A J HAYNES:

As I understood it Town Range was going to have water meters introduced.

HON J B PEREZ:

Mr Chairman, they are at present being installed.

HON A J HAYNES:

Does that mean that we cannot expect more increases in the future?

HON J B PEREZ:

That would be correct as far as that particular section is concerned. They are in fact being installed now by the PWD.

HON A J HAYNES:

Are any meters intended for operation in the Filipino Hostel?

HON J B PEREZ:

In the Filipino Hostel there are no meters as far as the general ablutions are concerned but if individual tenants instal a water supply within their premises then they have individual meters. They are in existence already, Mr Chairman.

HON A J HAYNES:

What percentage of the £10,000 increase relates to Town Range and what percentage relates to the others?

HON J B PEREZ:

I haven't got that exact information with me now. It is really for the three Centres.

Item 5 Head 8 - Housing was agreed to.

Item 6 Head 10 - Judicial was agreed to.

Item 7 Head 11 - Labour and Social Security

HON W T SCOTT:

Mr Speaker, could I ask the Minister why there has been this need to employ additional staff.

HON MAJOR F J DELLIPIANI:

Sir, this was the subject of staff inspection by Management Services and this is what they recommended. Obviously there is an element of the Spanish registration of pensioners on this matter and the fact we have a bigger turnover in money because of supplementary benefits and pensions and the number of unemployed. Also because of this we have been able to give you more exact figures on unemployment.

HON P J ISOLA:

I dispute that last comment, in fact, Mr Speaker. It was precisely that that I was asking earlier on in the proceedings of this House. I don't think Government could have pre-empted that question.

HON J BOSSANO:

When the House passed the motion on the need to increase the ability of the department to handle infringements of the law as

regards employing labour without permits and so on and subsequently the Government brought a Bill to the House increasing the penalties for people being employed without a contract, I asked the Minister to ensure that in fact the department would be strengthened in the area of Labour Inspectors whose duty it is to check on whether people employed have had valid contracts established and agreed with the department. Can he tell me whether there are extra Labour Inspectors included in this and if not why not?

HON MAJOR F J DELLIPIANI:

There are no extra Labour Inspectors in this because this Management Services study was carried out before the question of the penalties increase was done. It is something that I will pursue.

HON W T SCOTT:

Can the Minister say whether there is any element contained within this sum for the registering of unemployed Spaniards from across the border?

HON MAJOR F J DELLIPIANI:

Yes, in our offices at the ex Key and Anchor Club we take the particulars of the pensioners, we take particulars of people who are looking for employment.

HON W T SCOTT:

I can understand the question of pensioners, Mr Speaker, but quite frankly as far as the expense that the public is being put to to be able to register unemployed Spaniards with the unemployment situation that we have in Gibraltar, it seems to me to be throwing money down the drain and I would like the Government to comment on that.

HON MAJOR F J DELLIPIANI:

I haven't got the latest figures but I think it is about 1,000 Spaniards who have shown an interest in getting work in Gibraltar. I don't know of any other way to handle it except having probably a police cordon in front of The Haven stopping people from coming in and questioning what they are here for.

HON W T SCOTT:

Is the Minister saying that the more Spaniards that come across the border to register the more employees his department will have to have and the more often he will come to this House seeking more money?

HON MAJOR F J DELLIPIANI:

No, Sir.

Item 7 Head 11 - Labour and Social Security was agreed to.

Item 8 Head 12 - Lands and Surveys

HON G T RESTANO:

Mr Speaker, under (b) with regard to the explanatory remarks, I noted, I think it was with the Passport Office, that Government passed a comment that it was cheaper for them because of the high rent that they had to pay to a private landlord, that they were moving into part of the premises which had been occupied by the old Girls' Comprehensive School. Why has not the same occurred with the Industrial Relations Section?

HON A J CANEPA:

They were already occupying accommodation in Secretary's Lane and we have had notice given for a very high increase in rent. The Government already had a flat there which the person that it was earmarked for in the event preferred to move into some other quarter, I forget the exact details. We have a lease on this flat for a certain period of time and it works out much more cheaper for the Government to make this small conversion, take over the flat and use it for the Industrial Relations Division at a much lower rent than what we were being asked for otherwise. We are at the moment having a very comprehensive look, generally, into the provision of Government office accommodation and we hope in the Improvement and Development Fund in connection with the budget to bring fairly wide-ranging proposals involving conversion of existing Government buildings into office accommodation for a number of departments.

Item 8 Head 12 - Lands and Survey was agreed to.

Item 9 Head 13 - Law Offices.

HON P J ISOLA:

Have the arbitration proceedings been concluded?

HON ATTORNEY-GENERAL:

No, Mr Chairman, I would suggest that if the Hon Member wants further information he might like to put a question for the next meeting.

Item 8 Head 12 - Lands and Surveys was agreed to.

Item 10 Head 14 - Medical and Public Health.

HON G T RESTANO:

I notice that there has been a reduction in the conditioned hours. Can the Minister explain what those hours now are?

HON J B PEREZ:

It is a reduction from the 40-hour working week to 37½ hours.

HON G T RESTANO:

Was there any reason for that?

HON J B PEREZ:

Parity.

HON W T SCOTT:

Mr Speaker, I had a question in fact on Subhead (1) Personal Emoluments. Mr Speaker, surely the negotiations leading to a drop in hours of working from 40 to 37½ is part of the pay settlement?

HON J B PEREZ:

Not in this particular case. It wasn't part of the pay settlement.

HON W T SCOTT:

Can the Minister say why not?

HON J B PEREZ:

The monies did not come from the vote at estimates time under pay settlement. What I require the money for is overtime because obviously if they are now working 37½ hours a week instead of 40 and we want to maintain the same level of manning of wards, each particular employee gets an extra of whatever overtime is necessary in any event, gets paid 2½ hours overtime apart from the normal level.

HON W T SCOTT:

I am aware of that, Mr Speaker, but what I am trying to illustrate to the Honourable Member is that the overtime payable is in fact not overtime obviously that was envisaged originally in the year but as a result of a pay settlement and because of that I would have felt, and I am asking the Minister for an explanation, why this does not appear in the re-allocation as part of the pay settlement?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, it is because the Treasury takes rather a purist view on transfer of funds out of the pay settlement. We

only allow the transfer over where there is the percentage increase on the salaries and any incidentals that arise from the re-negotiation which causes the increase in pay. We come to the House and seek supplementary provision so that the House knows what happens. I think that it could obscure, had it been transferred as we could have done, from the vote by re-allocation, it would have obscured and the House would not have been aware of the change in the 40-hour week.

HON G T RESTANO:

I see Pharmacists are now getting a flat 28% on cost. What were they getting before that?

HON J B PEREZ:

39½p per item.

HON G T RESTANO:

And does the Minister have an idea what more or less that represented in percentage terms?

HON J B PEREZ:

It depends for which particular year. I think the average would have been from 20% to 22½%. The claim has been pending for quite a long time and I am happy to be able to bring to the House that we have at long last negotiated this matter satisfactorily.

HON G T RESTANO:

The increase in the cost of drugs supplied is £35,000. Is the Minister satisfied that he is getting good prices for the drugs that are being supplied?

HON J B PEREZ:

The honest answer is no.

HON G T RESTANO:

What is he doing about it?

HON J B PEREZ:

The matter is being at present investigated by the Management Services Unit and we are seeking advice from the relevant authority in the United Kingdom. There is a report available which came out recently in UK which we have a copy of.

Item 10 Head 14 - Medical and Public Health was agreed to.

Item 11 Head 15 - Police

HON A J HAYNES:

Will the Government confirm that part of the cost in investigation expenses are the result of police officers having to personally take samples to be analysed in the United Kingdom by hand. They have to travel to England even if it is for a matter which is relatively a small amount of an unknown drug. They stay there 2 or 3 days, their expenses are paid, they return a week or two later again for a 3 or 4 day round trip, and the cost to the taxpayer is out of all proportion. Is there nothing that the Government can do to ensure that the drugs that are sent to the United Kingdom for investigation and analysis are taken and brought back without incurring the very high cost which also results in police officers being away from their duties.

HON ATTORNEY-GENERAL:

Mr Chairman, my understanding is that these items do include the taking of samples to the United Kingdom for analysis. As I am sure the Honourable and Learned Member knows it is essential that somebody does take them. I think, although I will look into this, the police usually take the opportunity to do other things as well when they are out there. I am quite sure myself that the Commissioner of Police is aware of the need to keep costs down as much as possible but I will certainly discuss with him whether it is possible to improve it. But to come back to the basic point, I think the Honourable and Learned Member must know that it is essential that samples be taken by a courier, as it were, or by a police witness and collected by him.

HON A J HAYNES:

Sir, whilst I appreciate that there is an evidential requirement to establish in court beyond all doubt that the sample that you produce is the one that was taken from the person and is the one that was sent to England for analysis, it does not nevertheless mean that the same Police Force have to put a police officer to effect that business. I am informed that in previous years, say, 10 years ago or earlier, there used to be an arrangement whereby the samples were taken to England by hand of the pilot. The courier in those days was the pilot. Perhaps the introduction of a courier service or the facility to the courier service of some other form would be cheaper than that to a police officer. I take the point that when a police officer can usefully be employed in England doing a course or whatever, that would be an appropriate occasion to use his services as a courier. But on occasions when there is no such need, we are talking about an inordinate cost of the process of justice which I believe can be cut down considerably without jeopardising the prosecution of cases in Gibraltar.

HON ATTORNEY-GENERAL:

Mr Chairman, defence Counsel these days are much more demanding in these matters. I do not really think it is feasible for

somebody other than a police officer. I think if there is room for improvement, I don't concede that there is but if there is, then I think it must surely be on looking at ways and means of reducing the time that is spent going to and from.

HON H J ZAMMITT:

Mr Speaker, may I enlighten the Honourable Member. I think he is wrong. The Police have always sent a policeman over with narcotics or drugs and it has never been left to the pilot or anybody else purely because people in his own profession, lawyers, would very cleverly point out some breakage of link, or linkage, with a particular item and therefore the evidence that lawyers look up so minutely has always been, and I can speak from personal experience, has always been taken to Scotland Yard or whichever other laboratory by a police officer.

HON A J HAYNES:

Sir, I do not propose to quibble with the Minister as to whether the hand of pilot system existed, this was my information from the Police Force, if his memory serves him differently, well, it is neither here nor there, Sir.

MR SPEAKER:

What you are interested in is in mitigating the cost.

HON A J HAYNES:

Exactly. Alternatively, Sir, if the police are adamant that they will be unable to prosecute cases, and that is something which I do not accept, if they are unable to devise a system which will be able to resist the efforts of defence lawyers, then why should they not consider the installation in Gibraltar of a small forensic laboratory to be run perhaps by the Medical and Health Services and their laboratory facilities which would facilitate the analysis of drugs at least and thereby mitigate the cost on that matter. I am concerned that the cost should be mitigated unless of course the Attorney General is saying that these are perks which provide police officers with holidays.

Item 11 Head 15 - Police was agreed to.

Item 12 Head 16 - Port

HON A J HAYNES:

What were the additional services and how were they offset by revenue?

HON A J CANEPA:

Mr Speaker, these are the ongoing services, I think a distinction

has to be drawn when one comes to the House for a small sum of money on an ongoing item, as against Item 81 or 82, where one is coming near the end of the financial year for supplementary funds under a new item. At the beginning of the year it is estimated that the service which is provided by the Surveyor that the Port Department employs that, roughly, that is going to require a sum of about £2,000. In the course of the year a bit more work has to be done by the surveyor and if you find that the sum of £2,000 which is a small sum is inadequate one has got to top it up, as it were, by an addition of £500 but I cannot give him specific details on something that is an ongoing thing throughout the year.

HON A J HAYNES:

Sir, my only concern was whether this sum could have been anticipated.

HON W T SCOTT:

Sub-Head 82, Mr Chairman. May I ask the Government if this loan is interest related?

HON A J CANEPA:

Mr Speaker, the loan will be repaid in 5 equal instalments of £5,000. The first repayment will be due 24 months after the first drawing on the loan and the second and subsequent repayments will fall due at 12 monthly intervals. Interest at the rate of 8% per annum and calculated on the basis of a 365-day year for the exact number of days elapsed will be payable yearly. The first interest payment is due 12 months after the first drawing of the loan.

HON W T SCOTT:

I am grateful for that, Mr Speaker. Will the Honourable Member say, although it is not a Government Department, whether the purchase of this boat went out to tender?

HON A J CANEPA:

No, it did not go out to tender.

HON G T RESTANO:

Is Government satisfied of the reasons why the Department should not go out to tender?

HON A J CANEPA:

The Pilots are self-employed. The Government only has control over them to the extent that the Captain of the Port is the Pilotage authority but it does not go any further than that. Government cannot tell these people how they should go about purchasing a new boat, they are self-employed independent people.

HON G T RESTANO:

I can appreciate that but except in the circumstances where they do ask Government for a loan of this size. Secondly, does the Minister know of the source of origin or the country of manufacture of this boat.

HON A J CANEPA:

I heard about it yesterday or two days ago, Mr Speaker, I understand that the boat has been purchased from Algeciras.

HON W T SCOTT:

And does the Minister consider this an ideal circumstance, where the public of Gibraltar have been asked to lend money to a quasi Government Pilots Association to use money to purchase from a country that up to now has had anything else other than a hostile attitude to Gibraltar?

HON A J CANEPA:

It was the fact, I think, that they are providing a quasi public service which weighed rather heavily with the Government in deciding that in fact we should give them reasonable terms for a loan. I was not aware, I must confess, at the time that the boat was not being built in Gibraltar. It could well be, I do not know, that the size of boat required may not be possible to obtain in Gibraltar. But if it can be obtained in Gibraltar at a reasonable price, naturally, I would very much have preferred that the money would have stayed here.

HON A J HAYNES:

Will the functions of the Gibraltar Pilots Association boat be any different to the Port launch?

HON A J CANEPA:

Yes, completely. The Port Launch is used by the Port Department in connection with its duties and functions. The Pilots' boat is used by the pilots to convey them to and from vessels which require piloted services. That is quite independent.

HON W T SCOTT:

Mr Chairman, I am still not entirely happy with the situation. I would like to ask the Government what is their criteria for loans.

HON A J CANEPA:

I do not think that the Government has general criteria with respect to loans. If the request is made by a sports club, the Sandpits Lawn Tennis Club, certain criteria are applied, I do not think that the same criteria can be applied in this case.

What we took into account here was that a year ago, or just over a year ago, a fund was created under the Embarking and Fees Rules. It was intended to set up a fund for the purchase and maintenance of pilotage boats. In the event, the revenue that has accrued to the fund has been insufficient to enable them to set money aside to purchase the boat because the existing boat is so old and requires so much money to be spent on maintenance that that, together with the wages that they pay, they employ somebody, they may have a full-time industrial employee, together with the wages of that industrial, together with the high expenses on maintenance, it has not been possible for any money to accrue to that fund. It is hoped that as a result of purchasing a new boat maintenance costs will go down to such an extent that that, together with a small increase which we are allowing in these fees, I think, as from the 1st of March, should enable a proper fund to be set up in the future.

HON W T SCOTT:

Is the Minister satisfied that value for money has been provided within the £25,000?

HON A J CANEPA:

If the Honourable Member is asking whether they are getting a good boat for £25,000, the answer is that I do not know, quite honestly.

HON W T SCOTT:

Should not the Government ensure by perhaps people that it has in its employment qualified to be able to advise on this, to solicit this advice before it asks the House to vote the funds?

HON A J CANEPA:

I would imagine that the Pilots themselves should know whether they are getting a good boat and I would imagine that the Captain of the Port must be satisfied that the Pilots know that they are getting a good boat.

HON W T SCOTT:

Mr Speaker, I am certainly not at all happy with the situation.

HON A J CANEPA:

If I might explain further, Mr Speaker, the Pilots approached me just before Christmas. They were seeking a loan to meet the cost of the boat which was already ordered and nearing completion. I do not think that this is the only boat that they are going to require because I think that they use 2 or 3. The likelihood is that they will be having to purchase a second boat before long. I will certainly press them very hard if they approach the Government again for another loan in connection with where the boat is going to be built and I will need to be satisfied that that boat cannot be provided within Gibraltar for

the Government to entertain any further requests for a loan.

HON J BOSSANO:

The Government has in fact not been willing to take over the responsibility of providing the boat itself, is this not the case?

HON A J CANEPA:

That is the case, Mr Speaker, yes.

HON J BOSSANO:

And does not the Government think that if it wants to lay down conditions for people who are self employed but whose income is determined by the Government controlling what they can charge for their service, the Government cannot do both things, it cannot tell people how they must spend their money and refuse to take on the responsibility itself, surely.

HON A J CANEPA:

No, I don't think that we can, Mr Speaker, but one can probe a little bit further than has in fact been the case. I think there are limitations within Gibraltar as to the type of boats that we can provide. As I say, I would need to be satisfied and it might well be that I would be satisfied that every effort has been made to get the right sort of boat within Gibraltar that it cannot be obtained and in the circumstances it is fair that they should get it from outside, I do happen to know that there are people in this business of building boats in the bay who have a good reputation, who are good, I am pretty certain that the Pilots are getting a good boat because the expertise is there.

HON J BOSSANO:

And surely, also the Member will agree that since it is the pilot's life that is at risk they have got an inherent interest in ensuring that the boat is a good one and it does not sink in the bay.

HON W T SCOTT:

Mr Speaker, on the basis of the last comment passed by the Minister and that is that we are not entirely satisfied on the criteria applied, we on our side of the House will be voting against that, but in voting against this let me add that it is not because we do not consider that the Pilot's Association do not require the £25,000 or that in fact that they do not require 1, 2 or 3 more boats, let us make that absolutely clear. It is only because we are not entirely satisfied with the manner of approach leading to the end result that it has had.

HON A J CANEPA:

That is quite valid, Mr Speaker, but I would also ask the

Honourable Member to bear in mind one thing and that is that we have to provide a competitive service to shipping, and if the pilots approach a bank for a loan and the terms which the bank give are very unfavourable, then the comeback will be on the Government. The pilots will then have to make a case for a further increase in the embarking fee which if that becomes a pattern of life, if that becomes a regular feature, could make us uncompetitive. The Government also has to weigh that up, that the terms which they were offered by the bank were stiff terms, they were too stiff, really, and the Government also has to take that into account.

On a vote being taken on Item 12, Head 16 - Port, Sub-head 82(N) Loan to Gibraltar Pilots Association, the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddie
The Hon Major R J Feliza
The Hon G T Restano
The Hon W T Scott

Item 12, Head 16 - Port, was passed.

Item 13 Head 17(1) - Post Office, Post Office and Savings Bank was agreed to.

Item 14, Head 20, Public Works Annually Recurrent

HON W T SCOTT:

Subhead 25, Carparks. What are the hours that are envisaged of opening of the Western Beach carpark which would require the three car park attendants?

HON M K FEATHERSTONE:

8 a.m. to 10 pm., Sir.

HON W T SCOTT:

How many days of the week, is it ??

HON M K FEATHERSTONE:

Seven days a week.

Item 14 Head 20 - Public Works Annually Recurrent was agreed to.

Item 15 Head 22 - Secretariat

HON W T SCOTT:

Subhead 5, Public Utility Costs, where it is said that it is underestimated. Has Government taken account on the remark where it says there has been an increase because of telephone rental, that there has been a backdating and a reduction in telephone rentals to the 1st of January this year?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir, the point here, I think, is that there has been a whole new telephone system put into the Secretariat whereby instead of going through the telephone operator, one can now get through direct to offices as well as going outside and this has slightly increased the number of telephones.

Item 15 Head 22 - Secretariat was agreed to.

Item 16 Head 23 - Telephone Service

HON W T SCOTT:

Mr Speaker, is this as a result of staff inspection?

HON DR R G VALARINO:

Yes.

Item 16 Head 23 - Telephone Service was agreed to.

Item 17 Head 24(1) - Tourist Office, Main Office

HON MAJOR R J FELIZA:

Mr Chairman, I wonder if the Minister could explain why it has been found necessary to upgrade the Clerical Officer Post to

Executive Officer. What sort of job would he have to do there now that he did not do before and what can we expect as a result of that?

HON H J ZAMMITT:

Let me start in the reverse order, Mr Speaker, and say what you can expect. I think we can be very proud of the air terminal we have today and what happened there was that the upping of the Clerical Officer to Executive Officer was to make sure that we had somebody at the air terminal permanently in charge, together with other responsibilities. Because of the extension of the air terminal there is a need to employ additional cleaning staff to ensure that the standard of the air terminal is maintained.

HON MAJOR R J FELIZA:

The Minister thinks it has been necessary, but why? I think we must be very conscious particularly now, of containing our expenses, otherwise we are going to find ourselves in difficulties. Is it absolutely necessary? This is a completely new post, is it?

HON H J ZAMMITT:

No, Mr Speaker, it is not a new post. The situation is possibly complex. The Airport Manager is the Director of Tourism. We never had anybody there other than probably 15 years ago when there was somebody at the airport, but that was before the frontier closed when we had 8 flights a day. Since the frontier restrictions we have had nobody permanently at the airport, certainly not in the clerical grade. The Honourable Member may be thinking of somebody we had there as a porter-cum-general supervisor. Now we have a clerical man there, who is in charge of an attendant, a boy labourer, the cleaners and the whole set-up. In addition to that he has other responsibilities. I can tell the Honourable Member that he is also responsible for all the sites, St Michael's Cave, the Tower of Homage, the Upper Galleries, and all the other tourist sites that we have. It is a new post required specifically so that we do not allow the air terminal to deteriorate as unfortunately happened before we refurbished it.

HON MAJOR R J FELIZA:

I agree that the air terminal looks better and I was going to congratulate the Minister on the cleanliness. However, I notice that he has mentioned other staff so it is not just the fact that it is going to cost us more on the upgrading of this post, which is now going to be permanent and I do not know whether that will have repercussions in another place where very quickly you may need somebody else there because this is the way empires are built. I just wonder if he can tell me, overall, how much more the new arrangement for the air terminal is going to cost us taking all the other people that are now going to come under this new post?

HON H J ZAMMITT:

I haven't got all the figures in front of me of the six part-time cleaners, of the boy labourer or of the attendant who is there permanently now, of the girl that we have behind the counter, receiving and giving information. I haven't got it now but I dare say, Mr Speaker, that the cost is some £25,000, I dare say.

MR SPEAKER:

In any event this is a matter which has to be cleared up when we come to the budget meeting. The extra cost is obvious from the extra funds being appropriated, the extra cost for the current year is £9,700.

HON MAJOR R J FELIZA:

I just wonder if the Minister could let me have the information as soon as he can get it because one has to watch how the cost is gradually creeping up.

HON H J ZAMMITT:

I would remind the Honourable Member that most of the damage that we have suffered at the air terminal was because there being no one there permanently and we found an awful lot of people going in, damaging the seats, damaging the toilets, and I think we all know the state it was in before and the state it is in today which as I say, I think we can be very proud of.

HON MAJOR R J FELIZA:

Mr Speaker, under the same Head (b), the engagement of three additional clerical officers. I wonder why that is necessary and where they are?

HON H J ZAMMITT:

Mr Speaker, those three Clerical Officers were taken up by the Department in anticipation of the opening of the frontier, that is, when we thought the frontier would open not in the way it has opened. Out of those 3 we only have one who we have positioned at Four Corners. With regard to the other two, I think I am accurate in saying that one is being paid by us but absorbed by the Police Department and the other one is somewhere in Secretariat. Although they are included in my vote because they really are our girls, we really have no major function for them to work for the Tourist Office and therefore they are deployed elsewhere but, hopefully, when things get better they will be doing tourist work.

Item 17 Head 24(1) Tourist Office, was agreed to.

Item 18 Head 25 - Trading Standards and Consumer Protection

HON W T SCOTT:

Mr Speaker, this is a matter of personal interest, Mr Speaker, although the sum is obviously quite small, £500, but it seems to me rather out of proportion in respect of repairs and freight charges of Balances of precision.

HON A J CANEPA:

What happened, Mr Speaker, is that these precision balances have to be sent to the UK either for testing and or repair every 3 or 5 years. What has probably happened is that because the last occasion that they were in fact sent may have been say three years ago, an estimate was made of what it would cost to have them repaired and to meet the freight charges and the estimate provided was £700. In fact, when it comes to the crunch and arrangements have been made, we have found that over the intervening period the cost of having the service provided and for the freight charges has turned out to be much higher than what we anticipated. If it were an annual thing we would be able to keep tabs on it rather better but certain balances are sent every 3 years, others every 5 years and so on. They are the standard balances against which other balances in Gibraltar and other scales are tested.

Item 18 Head 25 - Trading Standards and Consumer Protection was agreed to.
Schedule of Supplementary Estimates Consolidated Fund (No 4 of 1982/83) was agreed to.

HON DR R G VALARINO:

Mr Speaker, Sir, before we get on to the Improvement and Development Fund, I would like to clear up a matter which was raised by the Honourable and Learned the Leader of the Opposition. The Committee of Enquiry 1982 final report says, and it is page 7-3(4) and I shall quote: "An administrative officer located at Waterport and supernumerary for an initial period should be given specific duties related to financial and personnel matters. Areas of influence appropriate to this post would include, amongst others, purchasing and contract coordination, stores and stock control administration and management accountant system development. The City Electrical Engineer and his Deputy should set out a programme of managing systems and procedures that require development and make the administrative officer responsible for their successful implementation". Mr Speaker, this is one of the recommendations of the Committee of Enquiry.

MR SPEAKER:

We will go on with the Improvement and Development Fund.

Schedule of Supplementary Estimates Improvement and Development Fund (No 4 of 1982/83) was agreed to..

Item 1 Head 101 - Housing

HON W T SCOTT:

Mr Chairman, might I ask Government, what is the total sum of this project now as envisaged at the time of going out to tender?

HON M K FEATHERSTONE:

I am afraid, Sir, I do not have that information at hand but I can send it to the Honourable Member.

Item 1 Head 101 - Housing, was agreed to.

Item 2 Head 102 - Schools

HON A T LODDO:

Mr Chairman, the remark says "Cost of project revised". Is it because there has been further equipment brought in, or is it because it was underestimated?

HON M K FEATHERSTONE:

I beg your pardon, I seem to have been at cross purposes. Wasn't the Honourable Mr Scott's question the total sum of the Westside School?

MR SPEAKER:

That was on Housing. We are now on Head 102, Schools.

HON M K FEATHERSTONE:

I apologise, I noted it down that he wanted the total sum of the schools. I will give him the total sum of the Castle Ramp Scheme.

HON W T SCOTT:

And the original tender sum, the original estimated sum.

HON M K FEATHERSTONE:

Yes, I will do that for you. And now, if Mr Loddó will be kind enough to repeat his question.

HON A T LODDO:

Yes, Mr Chairman. These £52,000. "Cost of the project revised". Is it merely that there was a mistake in the actual costing or is it that there has been further equipment brought in subsequent to the initial costing?

HON M K FEATHERSTONE:

Most of it is further work that had to be done. There was a considerable amount of asphaltting that had to be done and electrical supply had to be fitted in and there were some minor increases in actual costings.

Item 2 Head 102 - Schools was agreed to.

Item 3 Head 108 - Telephone Service was agreed to.

Item 4 Head 109 Public Lighting was agreed to.

HON W T SCOTT:

Mr Chairman, one last general comment if I may. We are very much concerned on our side of the House at the low figure that appears under Supplementary Estimates for the Improvement and Development Fund and this we can only take as obviously the lack of development particularly within the construction industry which is at a dearth in Gibraltar.

Schedule of Supplementary Estimates Improvement and Development Fund (No 4 of 1982/83) was agreed to.

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

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

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

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Immigration Control (Amendment) Bill, 1983; the Public Service Commission (Amendment) Bill, 1983; the Trade Licensing (Amendment) Bill, 1983; the Public Health (Amendment) Bill, 1983; the Traffic (Amendment) Bill, 1983; the Public Utility Undertaking (Amendment) Bill, 1983, and the Supplementary Appropriation 1982/83 Bill, 1983,

have been considered in Committee and agreed to, in the case of the first three Bills, that is, the Immigration Control (Amendment) Bill, 1983; the Public Service Commission (Amendment) Bill, 1983 and the Trade Licensing (Amendment) Bill, 1983, with amendments, and in the other cases without amendment, and I now move that they be read a third time and passed.

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

PRIVATE MEMBERS' MOTION

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House considers that Spain has no jurisdiction over the Gibraltar airfield and should have no say in its present or future use". Mr Speaker, the motion that I bring to the House has the same purpose as many other motions that I have brought related to the aspirations that Spain has over Gibraltar and the questions that I asked in the earlier part of the House concerning the right of the Gibraltarians to determine what the nature of the relationship between Gibraltar and Spain should be should Gibraltar be unfortunate enough to have to suffer the consequences of the implementation of the Lisbon Agreement. Mr Speaker, the Spanish approach to the question of the airfield is one which has suffered on a number of occasions. It has been a longstanding argument put forward by successive Spanish Governments and successive Spanish Foreign Ministers, that quite apart from the issue of the title of Britain to Gibraltar in the Treaty of Utrecht, that such title did not include the airfield which according to them is built on ground outside the city walls and outside the provisions of the territorial area conceded to Britain under the Treaty of Utrecht. Given that argument which, of course, Britain at one time offered to refer to the International Court and was not taken up by Spain, given that argument, it is reasonable to assume that the question of the airfield could figure prominently in any Spanish demand for concessions as a quid pro quo for the lifting of the frontier restrictions entirely. We also know, Mr Speaker, that when the pedestrian opening was announced, particular attention was drawn to the question of the Gibraltar airfield by no less a person than the President of the Spanish Government who made some mistaken comparisons about the subsidies that flights to Gibraltar received, presumably thinking that because Gibraltar is a cabotage route it necessarily follows that fares to Gibraltar are cheaper than they are to Spain. In fact, there is plenty of evidence to suggest that as far as charter operations are concerned, anyway, the opposite is more likely to be true. But, nevertheless, in the eyes of the Spanish citizen, the emphasis that has been put by the Spanish media on this suggests that it is an area which will be considered sensitive by the Spanish Government. And the argument that has been put has been put on the basis that a lifting of the blockade against Gibraltar should not result in Gibraltar gaining economically at the expense of Spanish economic interests. Therefore, one can visualise the possibility that was being mooted 12 months ago,

when there were very strong indications that the frontier was scheduled to open on the 20th of April following the meeting in London in the beginning of the year between Mrs Thatcher and Senor Calvo Sotelo, it was then being mooted that the Spaniards had already been given strong indications by Britain at that stage that movement on the airfield was possible. It is also said that it is not something that would be floated for the first time since it was in fact previously floated during the course of the Strasbourg process. Given those considerations it is not, I put it to the House, unrealistic to think that in the area of economic cooperation that the Lisbon Agreement mentions, the Spanish Government could be putting the case that the cooperation should lead to Spain having a say over flights landing at the Gibraltar airport and eventually a measure of control over reducing their own personnel. At one stage the plan that seemed to be going round in political circles in Madrid with the last Government was one where the Gibraltar Airfield would effectively be serving the community of Gibraltar and the community of La Linea as if it was effectively on neutral ground and therefore on arriving at the airfield one would not be arriving at Gibraltar, one would decide then whether to take one road which would be the access road into Spain, or another road which would be the access road into Gibraltar but one would not need to go through Gibraltar customs or through Gibraltar immigration in order to go straight into Spain. That seemed to be an idea that was thought to be particularly attractive to Spain as something practical, something consistent with economic cooperation mentioned in the Lisbon Agreement and something that could be sold politically as a major breakthrough for the Spanish side. I think it is important, Mr Speaker, that the Spaniards, if they do decide to go ahead with the full opening, should be left in absolutely no doubt that they can expect nothing in exchange. I asked in an earlier question whether the Chief Minister could tell me what were the measures of economic cooperation that Lord Belstead had in mind when he said in answer to a recent question in the House of Lords that the British side would be wanting to raise things with Spain and the Chief Minister was not able to tell me what Lord Belstead was thinking about although he gave me an indication that he had some idea which he is not in a position to divulge of what might be discussed under that heading. I think it is regrettable that he is not in a position to divulge that because I think one of the things that we are suffering from, and have been suffering from for many years, is that things are being discussed which affect the whole of Gibraltar and which very few people know about and I think people are entitled to express an opinion before it is discussed. I think it would be to the advantage of the Government to go into anything armed with the weight of public opinion for or against any particular stand that they have to take. In asking the House to support my motion, I feel that I am asking the House to take a stand which would have overwhelming public support in Gibraltar. I have no doubt in my mind that any Gibraltarian asked whether he would agree with this motion would answer affirmatively, except for a small minority that believes that there is a need for reconciliation with Spain and define, in my judgement, reconciliation as giving in to Spanish demands. I do not believe that this is necessary because as far as we are concerned there is nothing to

be reconciled over because we have never quarrelled with anybody, Mr Speaker, we have been subjected to a campaign to bring us to our knees which we have resisted for 15 years and it seems to me that we are in greater danger now than we have ever been throughout those 15 years when the tactic has been altered and we need to be much more on our guard now when the tactic of the other side has been altered. I think, Mr Speaker, that the Honourable Member also in an earlier question gave me to understand that although the Lisbon Agreement did not enshrine a commitment that the Gibraltarian element in the British delegation would be able to veto things that it was inconceivable that the British side should propose anything without the agreement of the Gibraltarian representatives and that if it was attempted the Gibraltarian representatives would come out publicly disassociating themselves from this and asking for public support. I welcome that assurance from the Honourable and Learned Member and in putting forward the motion, let me say that I am doing so to ensure that he is not put in a position of having to do that by being asked to agree to something like this which I am sure would be against his wishes.

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

HON CHIEF MINISTER:

Mr Speaker, I just want to say that I had not anticipated that we would get through the first part of the proceedings so early, and in fact some notes that I had prepared for the motion are not yet ready. We might save a lot of time if we could adjourn until the afternoon and proceed with this motion then.

MR SPEAKER:

We will then recess until this afternoon at 3.15 when we will continue the debate.

The House recessed at 12.25 p.m.

The House resumed at 3.35 p.m.

MR SPEAKER:

I will remind the House that when we recessed for lunch the Honourable Mr Bossano had moved his motion on the airfield, I had proposed the question and now I will invite any Member who wishes to speak on the question before the House to do so.

HON CHIEF MINISTER:

Mr Speaker, I had intended to deal at length, in fact I was even looking at the old records and command papers before Mr Bossano spoke about the question of the legal jurisdiction to provide

ample evidence to show that the attitude of Britain with regard to the sovereignty over the isthmus that Britain has stated categorically that it has no doubt whatever about the lawful sovereignty of the land on which the airport was built, but it is unnecessary for me to go over that because a lot of what the Honourable Member has said I accept and in fact he has stated the position himself, so I do not think that I need go into that. I was also pleasantly surprised to find that I could agree with a great deal of what the Honourable Member said on this matter in support of his motion. However, there are two points on which I disagree with him and I would wish to deal with these first and then I will talk on the substance. The first point is that he said that a number of things have been discussed in the past which affect the people of Gibraltar and the people do not know anything about that and that in his view the people are entitled to know and to express an opinion before they are discussed. Well, in reply to a question on Tuesday I said that matters to be discussed in negotiations under the Lisbon Agreement must necessarily be confidential at this stage. This is the normal position of any negotiator in any kind of activity and I can publicly state that I have never been a party in discussions of this nature in the past to anything that was either contrary to the principles which I hold or which would be repugnant to the people whom I represent on the ticket on which I have been represented.

HON J BOSSANO:

Can I clarify the point for the Honourable and Learned Member. I was not confining myself to the Lisbon Agreement, in fact, the memorandum that we took to the British Government signed by all the representative bodies, today, a year later, is still not known to the people and I am not sure the constitutional proposals that he took to Britain in 1975 have been made public yet, 8 years later.

HON CHIEF MINISTER:

Be that as it may, I thought the Honourable Member was dealing with, not the Lisbon Agreement about which there has been no discussion, but I took it by analogy he was dealing with matters connected with foreign affairs on which one is consulted. I take that point, and in fact, as I told the Honourable Member yesterday, I have copies for him of the document to which he referred, one of them. The second point which I want to make in disagreement is related to the first and that is that the Honourable Member said that he had no doubt that any Gibraltarian, except for a small minority, would agree with his motion. I agree with that and I am sure that the Leader of the Opposition agrees with that too. This illustrates the point that both the Leader of the Opposition and I are sufficiently in touch with and aware of local public opinion to be able to deal with these matters which come up affecting Gibraltar without having to discuss them in the House and making them public and giving the people the opportunity of expressing an opinion beforehand. One has to lead and not be led from behind. The opportunity will always be available, if necessary, once proposals are made and need to be

considered. I think that for that purpose all the necessary procedural safeguards already exist. First of all, the Leader of the Opposition and I will be present at ministerial level talks and will express our views as necessary and appropriate on such matters as may be raised. Secondly, any proposals which are made at subsequent talks at official level will be a referendum and the Leader of the Opposition and I will have the opportunity of being closely consulted on matters relating to Spain which relate to Gibraltar as we have been for many years. I said also earlier, at the meeting that there were areas of relations between Britain and Spain in which Gibraltar wasn't directly concerned and only insofar as Gibraltar is concerned our voice must be heard but I would go as far as agreeing that anything that has to do generally, whether it applies to Gibraltar or not, that one must be careful because we must be careful that in an indirect way the position of Gibraltar is not undermined. Finally, of course, the House is already on record, as I quoted the other day, to the effect that it considers that any proposals which relates to the rights and interests of the people of Gibraltar should not be acceded to without the agreement of their elected representatives who will be safeguarding the legitimate rights of all sections of Gibraltar and the identity of its people. Those are the exact terms of the resolution which was passed in 1980 which I quoted earlier in this meeting. I do not think that it is of advantage to Gibraltar and in fact it could be contrary to Gibraltar's interests to discuss publicly what our attitude would be to any particular proposal that might be put forward before the proposal is in fact made. We might be even inviting and putting ideas into people's heads as to what they might raise, or by finding out the areas which one has spoken about they could interpret that as being areas where we would be prepared to give way. It is as delicate as trade union negotiations at high level with employers. I agree with the Honourable Mr Bossano that the question of the Airfield has figured prominently in the past as a matter of particular interest to the Spanish Government and it has been mentioned recently in connection with the partial opening of the frontier. Indeed, I think there is as much a misunderstanding about this in high Government circles in Spain as I found there was when we went to Strasbourg and Paris with the former Foreign Minister about what they called the "overnighting" which they did not understand very well. To speak about Gibraltar's competitive of heavily subsidised air transport from London as being a menace to the Costa del Sol is I think speaking quite clearly about a matter on which they are not well briefed, if I may say so with the greatest respect of the new Government in Spain. I think they have really not got it right, they just do not know. But they are too far away to know, people around here may know. I also agree that the question of the airfield may be a major feature in the area of economic cooperation in any negotiations undertaken in pursuance of the Lisbon Agreement. I agree finally with Mr Bossano that in any such negotiation it is necessary to ensure that Gibraltar's economic interests are safeguarded. It is with this thought in mind that I think it is desirable to propose an amendment to the motion which might help to allay the Honourable Member's fears even though, as I have stated, all the necessary safeguards already exist. And let me warn the Hon-

ourable Member that I do not propose to move that all the words after "This House" be deleted. In fact, I propose to leave his motion completely untouched except for one word which is conjunctive which doesn't require it there, it requires it at a later stage, so he need not be unduly concerned about that. I have had the occasion previously, both in this House and elsewhere, to draw attention in particular to the words "mutual benefit" in the paragraph of the Lisbon Agreement to which I have just referred. For instance, in my submission to the House of Commons Select Committee on Foreign Affairs I said, and I quote "The phrase 'mutually beneficial basis' obviously excludes any matter which might be prejudicial to the rights or interests of either side - or even, simply, not beneficial to one side or the other". I also referred to this question of mutual benefit in Question No 88 that I dealt with on Tuesday. Although our views on mutual benefit are well known, I think they might be well expressed once again in the context of this motion and in the context of the fears expressed by the Honourable Mover and therefore my amendment is to propose: (1) that a comma should be inserted after the word "airfield" in the motion and that the word "and" should be deleted, and (2) that the following words should be added after the word "use" in his motion: "and any proposals for practical cooperation - we must really take into account that there may well be talks and this matter will be raised and therefore I think if I may say so, even strengthen the position, certainly the concern of the mover in this matter - any proposals for practical cooperation in relation to the use of the airfield will fall to be considered under the terms of the Lisbon Agreement and must accordingly be of a mutually beneficial nature". I think this will be helpful to us as well in any talks if the question of the airport is raised because it will stress our belief in the part of the Lisbon Agreement on which we rely so much, apart from the commitment and so on, of the fact that anything that must be done must be of mutual benefit, that is, it cannot be for the benefit of one party to the detriment of the other but to the benefit mutually which means that it must be agreed by both sides. Sir, I beg to move.

Mr Speaker, then proposed the question in the terms of the Hon the Chief Minister's amendment.

HON P J ISOLA:

Mr Speaker, I am going to speak on the motion and the amendment because I don't think there is a need to speak just on the amendment. It is one of a series of motions that Mr Bossano brings from time to time to state the obvious as far as the House is concerned but he thinks and he feels that in Gibraltar people are worried about these things. And it is true, people are worried about any diminution of British sovereignty over Gibraltar and of course, as I understand it, all the political parties are unanimous in this as Gibraltar is. But I do not myself believe that there is a need for a motion on anything affecting sovereignty just because some newspaper somewhere mentions a possible solution or mentions this or mentions that. What

happens it that when a motion is put it rather makes people think that the thing is in doubt and there is no doubt as to how this House feels on the question of British sovereignty over Gibraltar. Mr Speaker, I venture to suggest that members of my political party, and I will not speak for the other political party, but certainly members of my political party, I would suggest feel rather more strongly on the question of British sovereignty over Gibraltar than the Honourable Mover of the motion judging from what he says or what he has said in the previous debate on the Dockyard. There is a certain inconsistency, if I may say so, in the attitude of the Honourable Member. On one day in the Dockyard he starts a speech and proposes motions and amendments to motions which he knows can only lead to one conclusion and that is really "Brits get out", the next day he proposes a motion to keep the Spaniards out as well. So who is going to fill the vacuum, I wonder? Is it going to be us or is it going to be another country, is he advocating some other country coming in to bail Gibraltar out of its economic problems? There is a certain inconsistency in the Honourable Member even though he always claims to be extremely consistent in his arguments. Then, Mr Speaker, there is no other point that I would like to make. As far as the whole of the House of concerned I believe that we all know where we stand on the question of Gibraltar and we all know where we stand in the Lisbon Agreement and we all know that as far as the Lisbon Agreement is concerned the commitment in the Agreement to recognise the wishes of the people of Gibraltar and that they should be paramount is the big insurance that we have and we are all secure in that basis. What worries me about the motion which states the obvious, as I have said, and which we will support, is that it gives the impression, not in the House but it gives the impression outside the House that it is not just the Spanish Government that is trying to put pre-conditions to talks but also we are, too. The Spaniards on a number of occasions leading up to Lisbon, have tried to water it down, have tried to say: "Alright, we will talk but let us have first the problem of Spanish workers becoming EEC Nationals, when they are not, in anticipation of it". The argument which has always been used against them on this has been: "No, you cannot come with pre-conditions. You are having an agreement, you are going to sit down and talk about the problems, well, talk, you cannot say I will not talk unless you concede this that and the other". This particular motion is useless in the sense that it is accepted by us, we all know the position, I think the British Government is perfectly clear on the position, with regard how the elected members stand. I know the Honourable Member has the advantage of being able to put his views through a newspaper and he puts them regularly and they are known, obviously, to the British Government but as he does not participate in the bi-partisan approach on foreign affairs he has not really got direct access to the British Government. But the Honourable and Learned Chief Minister, and myself, are given ample opportunity to state what we believe to be the Gibraltar position and how the people of Gibraltar feel on the issues of sovereignty and on all the other issues that concern our security and our safety and therefore we are always putting this forward. So I am sure that the Honourable Member when he is putting this motion forward is not suggesting that we need to be reminded

about how we feel because let me assure him that we do not. Our position on Gibraltar, certainly the position of my party, is possibly somewhat clearer than the position of the Honourable Member who moves the motion. Mr Speaker, we have no doubt that the whole of Gibraltar comes under British sovereignty and we have no doubt that the Spanish Government have no jurisdiction over Gibraltar and, as I say, it is stating the obvious to put it in a motion. We are in no doubt about that at all and we are equally in no doubt that what the Spanish Government desires is not a piece of the airfield but the whole of Gibraltar. What the Spanish Government desires is sovereignty over Gibraltar and, frankly, if people think that by offering them a bit of the airfield they will go away and never bother us again, they are making a big mistake. Accordingly, Mr Speaker, there is no difficulty with us in supporting the motion and also, Mr Speaker, in supporting the amendment proposed by the Honourable and Learned Chief Minister to the motion because, clearly, if Lisbon is implemented in the spirit that we understand it, and that is in a spirit that is in the interests of Britain, Spain and Gibraltar that there should be no barriers between the countries, that there should be no continuation of a siege of Gibraltar of an attempt at the economic subjugation of Gibraltar by Spain, if that is the spirit of Lisbon, I am saying that is how we understand it, it may be it isn't on the other side, I do not know, but as we understand it, if that is the case then, obviously, there are a lot of matters that can be raised and can be talked about that, in my view, would not infringe on the essential principles by which we all stand. I think that the amendment allows people to talk about practical cooperation in relation of the user of the airfield or the use of the airfield. Let me stress to the House that it is my party's view that when you talk of use you are talking of use, you are not talking of jurisdiction, you are not talking of control and you are not talking of any joint operation, you are talking of use, of possible use. I think that all of us are very aware of the problems that could arise if we gave it any other interpretation and we are all aware of all the problems that arise and that can arise in Anglo-Spanish relations with regard to Gibraltar and in Gibraltar relations with Britain and Spain, we are all aware of these things and we must always be ever watchful about it. Therefore, we certainly, as the Honourable and Learned Chief Minister has said, if there is a proposal that is to our benefit, then we might agree it. If it is not to our benefit then we won't agree it, it is as simple as that. Accordingly, Mr Speaker, I find no difficulty in supporting the motion and the amendment, we have no difficulty in supporting both of them and that is about all I think I have to say. We have put our view on the question of sovereignty and so forth ad nauseam in this House and elsewhere and I think I would be belabouring the point too much if I were to go through it all again. Mr Speaker, we support the motion and the amendment.

HON J BOSSANO:

I do not accept the amendment, Mr Speaker, perhaps not surprisingly, I do not know whether anybody thought that I would. Let me say to the Honourable and Learned Member that I won't go into his interpretation of his concept of how British we all feel and all the rest of it because in fact the reference to the question

of Spanish jurisdiction is the only area in which I mentioned that the dispute on sovereignty over the Rock, in Spanish eyes not in British eyes but in Spanish eyes, was different when they came to the airfield which they claim is on land that was not included in the original agreement and only to that extent did I touch on sovereignty in my original opening remarks.

HON P J ISOLA:

The Honourable Member is surely aware that an offer was made to take the issue of the airfield to the International Court of Justice.

HON J BOSSANO:

I am aware, I said so myself, in fact. There is no need to be reminded of it. Yes, I said so. I am saying that that is the Spanish view, it is not the British view and, in fact, Britain offered to have the matter decided legally in the International Court at The Hague, I said so at the beginning. The House knows that I am opposed to the Lisbon Agreement, that I have been opposed since it was signed and I am as opposed today as I was then and that I will do everything in my power to ensure that the agreement is not put into operation. All the motions that I have brought to this House are motions which reflect not only what we all feel and what we all know but what I think is because we all know and we all think that these things are the way we feel in Gibraltar are also fundamentally incompatible with the very spirit of the Lisbon Agreement. We have got the clearest example of that, Mr Speaker, in a motion that says that it is being amended to add words which contradict what the original motion says because if Spain has got no say in the use of the airfield how can Spain then negotiate practical cooperation in relation to the use of the airfield? As far as I am concerned what Spain can do is to ask for landing rights in Gibraltar like Morocco or any other nation.

HON CHIEF MINISTER:

But that would be the use of the airport.

HON J BOSSANO:

Well, Mr Speaker, I think that if that is what is meant then we have to think of a word that is different from the words "use", because if we use "use" twice... Yes, I know it is my word and I think it is the right word in the first place because having a say in the use of the airfield, Mr Speaker, means that Spain can determine to what extent the airfield is used and who it is used by, that is what it means, having a say in it, and in fact that is their view. Because apart from their claim in recent times they have made it absolutely clear that the military use of the airfield in itself is a separate issue over which they also feel they have a right to have a say. As far as I am concerned, if we are talking about a situation where we want to attract more aircraft, more commercial use of the airfield, then it does not

matter what is the nationality of the airline. As far as we are concerned we treat them all the same. I don't think that Spain is entitled to be treated separately or differently from any other nation and therefore I would move a further amendment to the amendment by deleting all the words after the word "and" and substituting the words: "that any facilities that may be granted to Spain in any future cooperation must be on the same basis as it would be to any other third country and clearly beneficial to Gibraltar's economy". That removes any reference to the Lisbon Agreement. I do not think that it is our business to talk about the thing being mutually beneficial. I think the Honourable Member talks about trade union negotiations, well, I can assure him that in no trade union negotiations do either side, either the employer or the trade union side, go into negotiations with the clear objective of ensuring that what they come out with is mutually beneficial. They each go in with a clear objective of what is beneficial for them and what comes out of the negotiations by definition is a compromise which is mutually acceptable and beneficial to the extent that it is beneficial. I don't mean it is the business of the House of Assembly to ensure that whatever is agreed is beneficial to anybody other than Gibraltar, that is our responsibility. We must ensure that it is beneficial to us and it is up to the other party to ensure that it is beneficial to them. I certainly cannot support anything that makes reference to the terms of the Lisbon Agreement which I am opposed to and I will continue to be opposed to, and as far as the use of the airfield is concerned I think it must be stated clearly that the only thing that Spain can expect is to be treated in the same friendly way as you would treat any other country that might be interested in making use of the Gibraltar airfield and bringing more business to Gibraltar. I beg to move, Sir.

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

HON CHIEF MINISTER:

I think however realistic and in fact I give the Honourable Mr Bossano credit for normally being realistic, his non-acceptance of the Lisbon Agreement gives him an ostrich like attitude of burying his head in the sand and pretending that it isn't there, but it is there, the British Government is committed to it, we have been consulted throughout and will be party to any talks arising out of it and there is no getting away from it. Another thing is that it is no use saying that the user of the airport shall be the same as any other third country because the proximity and the conditions under which because of the proximity, let alone anything else to do with claims or anything, I would have thought that it would be a much more difficult situation to come to terms as to the user of the airport by South Korea, Thailand or Venezuela than it would be to come to an agreement, or what? - or Russia. I always forget that all the time but I hear he didn't even mention North Korea. So it is really burying your head in the ground and pretending it does not exist.

The Lisbon Agreement is one which we have to face and live with. It is extraordinary if you have regard to the overwhelming or the great feeling about people, to say that he is entirely against the Lisbon Agreement certainly the bulk of the people are not against that as has been shown in practical terms and not against that part of the Lisbon Agreement that says the restrictions should be removed as has been practically been found by the figures I gave about the number of crossings of that frontier, so anybody who says that he is against the Lisbon Agreement which provides for the opening of the frontier and thinks that that is what the people want, the facts of life are very different. People are very British, people want Gibraltar to remain British, but, by God, quite a lot of people like to cross the frontier having regard to the numbers and that is what part of the Lisbon Agreement is about and for that reason, of course, we have to reject the amendment to the amendment.

HON P J ISOLA:

Mr Speaker, we will not support the amendment to the amendment. The Honourable Member wants to live without the Lisbon Agreement, he says he is opposed to the Lisbon Agreement and so forth, but we are committed to it, the two political parties, certainly my Party is committed to it with certain reservations which we have made public and it is a fact of life that when he puts his motion about Spain having no jurisdiction, he was referring to the Lisbon Agreement he obviously had that in mind. Why does he not want to have it mentioned? And what he says now could really be more dangerous. The Honourable Member says "that any facilities that may be granted to Spain in any future cooperation" - that assumes that facilities will be granted, it assumes it - "must be on the same basis as it would be to any other third country". It may suit Gibraltar to give facilities to Aeroflot which we do not want to give to Iberia, for example, or somewhere else. This is a normal thing with air treaties, they are all bilateral. Britain doesn't say: "Right, I will make a bilateral air treaty with France", and follow those conditions with Germany, Russia, they are all different. It never suits a country to do a bilateral treaty on anything on the same basis with every country. That is just not a fact of life where aircraft and air communications are concerned so that is not necessarily beneficial to Gibraltar. And we have to be practical, Mr Speaker, we have to be practical in the sense that a Lisbon Agreement is going to take place and I would venture to suggest that the concern in Gibraltar now by the great number of people - the Honourable Mr Bossano only puts motions down according to himself that everybody supports - but I would venture to suggest that a lot of people want to see the situation in the frontier normalised as quickly as possible. I notice that the Honourable Member has said sotto voce "so that they can spend more money", but we were alarmed when the frontier was opened, we made statements here but I notice that his party that was opposed to any sort of opening, that wanted Gibraltar to be left in peace here and that's it, and I have certain sympathy for that argument, said very little when the public started swarming over the frontier. He said very little, Mr Speaker, and it is a fact of life that the partial opening of the frontier damaging as it has been and

dangerous as it is, has been as far as the people of Gibraltar are concerned, has been reasonably popular. That does not mean that I agree with it, I certainly do not agree with it, Mr Speaker, and I would support any measures that puts the situation right but that is a fact and therefore I would venture to suggest that since this motion can only be taken in the context of the Lisbon Agreement, let us not be afraid of mentioning it. I reject that amendment, Mr Speaker, which has been conceived in the imagination of the Honourable Member in his obsessive obstruction of Lisbon. The thought that a motion that he produces should mention Lisbon I know is anathema to his way of thinking but unfortunately I think if Lisbon hadn't been there he probably wouldn't have moved the motion so why not have it in. Mr Speaker, this amendment really doesn't meet the requirements of the realities of the situation, doesn't meet the requirements of Gibraltar and doesn't meet the requirements of this side of the House, so we reject it.

MR SPEAKER:

Does the Mover of the amendment to the amendment wish to reply?

HON J BOSSANO:

I do not think I am going to be successful in convincing the Honourable Members, Mr Speaker.

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

The Hon J Bossano

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarinho
The Hon H J Zammitt

The following Hon Member abstained:

The Hon R J Wallace

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon D Hull
The Hon J B Perez

The amendment to the amendment was accordingly defeated.

MR SPEAKER:

We are now still with the amendment to the original question and any Hon Member who wishes to speak on the amendment is free to do so. I will then call on the Honourable and Learned the Chief Minister to reply to the amendment if he so wishes.

HON CHIEF MINISTER:

The ambit of the problem has been widely discussed and there is nothing I can add.

MR SPEAKER:

Then I will put the question.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

The Hon D Hull
The Hon R J Wallace

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J B Perez

The amendment was accordingly passed.

MR SPEAKER:

We now have the Hon Mr Bossano's motion, as amended, and any Hon Member who wishes to speak on the original motion as it stands now and who has not spoken to the question before, is free to do so. As there are no contributors I will ask the Hon Mr Bossano if he wishes to reply to the original motion.

HON J BOSSANO:

Mr Speaker, I won't say a great deal and I will not try to abuse the fact that I now have the right of reply to introduce anything new. I will say, however, that having brought the motion to the House I think that the motion as amended to some extent appears to be saying one thing in the first part, the part that I brought certainly the spirit in which it is put, the acceptance of the possibility and I have no doubt in my mind that if in fact the Lisbon Agreement is implemented, which is still not certain, this will be a matter high in the agenda, just like the Spanish claim to sovereignty will no doubt be high in the Agenda even if the Spaniards appear to be prepared to put it on ice, and I think the inability of the other members to accept the motion as it stands is precisely because they are committed to the Lisbon Agreement in spite of the fact that their original reaction to it was anything but welcomed when it was first announced. I think that this question of reasonableness which permeates attitudes is extremely dangerous, I think it appears in the context of the Dockyard, whether we are being reasonable or not being reasonable, in answer to a question that I put in the last House of Assembly, and I am absolutely sure in my own mind that the whole conditioning, the cajoling of Gibraltar into a particular stand, is going to be by successive appeals to our reasonableness and I don't think I am being unreasonable I think I am being totally determined to stick by the word and the letter and the spirit of everything I have said in the past and I will continue to do so in the future. I shall be abstaining on the amended motion and I am glad that at least the original motion has not been entirely castrated, it has just had something added to it.

MR SPEAKER:

I will then put the question which is that: "This House considers that Spain has no jurisdiction over the Gibraltar airfield, should therefore have no say over its present or future use and any proposals for practical cooperation in relation to the use of the airfield will fall to be considered under the terms of the Lisbon Agreement and must accordingly be of a mutually beneficial nature".

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes

The Hon P J Isola
The Hon A T 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 Zammit

The following Hon Members abstained:

The Hon J Bossano
The Hon D Hull
The Hon R J Wallace

The following Hon Member was absent from the Chamber:

The Hon I Abecasis

The motion was accordingly passed.

MR SPEAKER:

I understand that the Hon Dr Valarino has something to say.

HON DR R G VALARINO:

Yes, Mr Speaker, Sir. In order to put the matter right in reply to the letter that I wrote to the Honourable Mr Gerald Restano, let me explain that the reduction as in paragraph 2 of my letter is due to the fact that after 18 months and as in the original offer, a marginal reduction in the cost of hire would have taken place. However a large reduction (see paragraph 3 of the circulated letter) which had never been previously agreed to, was given on the Henschel set and negotiated in preference. At present the Department is being charged at the original rates for the skids and the necessary reduction will be calculated and offset on the final payments for the skids.

HON G T RESTANO:

I would like to ask, when the sets were hired they were hired for a period of 12 months or 18 months at a certain rate and the rate thereafter would be reduced. Was the drop, in fact, never negotiated?

HON DR R G VALARINO:

Mr Speaker, Sir, they were hired for 18 months, the drop in fact was discussed and never negotiated because the Henschel set took preference and it was decided to accept a large decrease in the price of the Henschel set and this was negotiated in preference to the marginal reduction in the cost of the hire of the skids. The amount which we are paying extra for the skids at the present time will be calculated in the final analysis and this will be offset in the final payments of the skids.

ADJOURNMENT

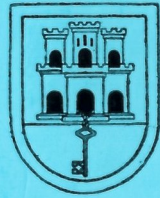
The Hon the Chief Minister moved the adjournment of the House sine die.

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

The adjournment of the House sine die was taken at 4.30 p.m. on Thursday the 24th February, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

23 March 1983
Vol. 1

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY.

The Fifteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Wednesday the 23rd March, 1983.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J 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 R J Wallace CMG, OBE - Financial and Development Secretary
The Hon I Abecasis

OPPOSITION:

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 22nd February, 1983, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Traffic (One-way Streets) Regulations, 1983.

Ordered to lie.

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

The Biennial Report of the Department of Education for the period September, 1980 - August, 1982.

Ordered to lie.

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

The Group Practice Medical Scheme (Amendment) Regulations, 1983.

Ordered to lie.

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

The Public Service Commission Regulations, 1983.

Ordered to lie.

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

- (1) The Imports and Exports (Control) (Amendment) Regulations, 1983.
- (2) The Government Debentures (Exemption from Income Tax) Regulations, 1983.
- (3) Supplementary Estimates Consolidated Fund (No 5 of 1982/83).
- (4) Supplementary Estimates Improvement and Development Fund (No 5 of 1982/83).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 7 of 1982/83).

Ordered to lie.

REPORTS OF COMMITTEES

HON M K FEATHERSTONE:

Sir, I beg to inform you that I do not intend to lay on the table the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance. I shall be giving further information on this in answer to a question later in the House.

HON ATTORNEY-GENERAL:

Sir, I have the honour to lay on the table the Report of the Select Committee on the Matrimonial Causes Ordinance.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

The House recessed at 5.10 pm.

The House resumed at 5.50 pm.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon and Learned the Chief Minister and the Hon and Learned the Minister for Health and Housing have given notice that they wish to make statements. I will therefore call on the Hon and Learned the Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, I have given notice of two statements. The first one is a statement on the Gibraltar Regiment as I normally do and it is with pleasure that I rise to make the customary annual statement on the affairs of the Gibraltar Regiment. This statement covers the period from 1 April, 1981 to 31 March, 1982. It is a little out of date, the information didn't come until recently. I hope I can make one this year in respect of the March one later on in the year.

The establishment of the Volunteer Reserve is 191 and was one below strength at the end of the period under review. This vacancy has since been filled.

In addition to the two annual training camps held in Gibraltar during the period under review, a total of 122 members of the Regiment, drawn from the Air Defence Troop, the Field Troop and the Infantry Company and Corps of Drums attended training camps in the United Kingdom, at Larkhill, Manorbier and St Martin's Plain. Weekend and evening training continued to be held in the usual way. The Regiment also participated in Exercise Winter Rain/Quickstep II. A number of the Regular members of the Regiment and volunteers successfully attended courses both locally and in the United Kingdom. In addition all members of the Permanent Cadre carried out Military Training in accordance with Army Training Directives and Administrative Instruction No. 24. The new traditional "local shoot" was held on 30 and 31 May. It consisted of firing to sea by both the 105 mm PH and 40/70 guns. The 105's fired at oil drums and a barge in both the direct and indirect role whilst the 40/70 fired at a towed splash target and at the barge. The Infantry also took the opportunity to fire the GPMG on 31 May. A total of 200 105 mm rounds and 300 L40A1 were fired.

The Regiment carried out the ceremonial mounting of the Convent Guard as well as the usual ground holding party for the wreath-laying ceremony by His Worship the Mayor at the Lobby of the House of Assembly on Remembrance Sunday. In addition the Regiment provided the Guard at the Convent on the occasion of the visit to Gibraltar of their Royal Highnesses the Prince and Princess of Wales as well as a detachment and Colour Party for the 200th Anniversary of Sortie Day. The Corps of Drums performed during Her Majesty's Birthday Parade, the Three Kings Cavalcade, the Royal Engineers Freedom of the City Parade, a Band Display in aid of the Sergio Gill Fund, Sortie Day Parade and the St John's Ambulance Brigade 60th Anniversary Parade. In addition, and as is now the usual practice, the Regiment provided a Port Sergeant and Escort to the Keys for all Ceremony of the Keys Parades. All Ceremonial Salutes were fired by the Regiment.

The House will be glad to note that the Regiment continued to participate in most sports and assisted Youth Clubs and Organisations as well as participants in the Duke of Edinburgh Award Schemes. At this juncture, Mr Speaker, I am sure the House will wish to congratulate the Regiment's .22 small bore team for their performance this year. The Regiment's A Team were winners of the 1980/81 GTSA League Championship and Division winners of the TAVR League.

The Gibraltar Regiment Association met twice to deal with a number of matters affecting the Regiment.

Mr Speaker, should any Member wish to have a copy of the detailed Report I will be pleased to make it available to him.

In conclusion, Mr Speaker, I am sure this House will agree that the Gibraltar Regiment continues to play a very important and effective role in Gibraltar. Members will wish to join me in thanking the Regiment and wishing them well in all their endeavours.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to associate this side of the House with the words of the Chief Minister and perhaps I would just like to say it is a pity that the report is so stale and out of date. I believe that rather interesting things have happened since the last report and I think we look forward to hearing the next one, I hope, in the not too distant future.

HON CHIEF MINISTER:

Mr Speaker, the second statement of which I gave you notice is on the recent developments regarding the Lisbon Agreement.

I am sure the House will bear with me if, by way of introduction, and, as it were, to set the scene for the rest of my statement, I were to recall briefly that the Lisbon Agreement was signed on 10 April, 1980 and that, under its terms, officials on both sides were to meet as soon as possible in order to prepare the necessary practical steps which would permit the implementation of the Agreement. The Agreement itself envisaged that these preparations would be completed not later than 1 June of that year.

On that date, Gibraltar declared itself ready for implementation, but it seemed that there were administrative difficulties on the Spanish side. Later, there was much talk instead of the granting of equal rights to Spanish nationals before implementation could proceed. In January, 1982, it was agreed in London, at the highest level, between the British and Spanish Prime Ministers, that the Agreement would be implemented on 20 April. That was postponed because of the Falklands conflict and the new date of 25 June was agreed. That too was postponed, this time sine die, although it was clear that Britain was ready to go ahead. On 10 December, 1982, the Secretary of State and the new Spanish Foreign Minister met in Brussels. 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.

Once again, although Britain continues to be anxious to implement the Agreement, there has been a postponement, again, it seems, sine die.

The Agreement was conceived in a 'spirit of friendship' and it looked forward to 'closer understanding' and 'practical cooperation on a mutually beneficial basis'. It was intended as a means of building up trust and confidence. The delays caused by the Spanish Government have inevitably had the opposite effect and have given rise to serious doubts about the Spanish Government's repeated references to their concern for the people of Gibraltar. This latest failure to implement the Agreement will exacerbate distrust in Gibraltar and will alienate opinion further both here and in the British Parliament.

In the meantime, on 7 December, 1982, the Spanish Government announced that the frontier was to be opened to certain restricted categories of pedestrians. This was to be done for humanitarian reasons because, it was stated, the Spanish Government did not wish to penalise the Gibraltarians. At the same time it was made clear that the Spanish Government would ensure that its economy was protected.

While regretting the discriminatory nature of the partial opening, I welcomed the move itself when it was announced, as a step in the right direction. We have all seen how quickly and how smoothly the people on the two sides of the border have resumed their former close family and personal links and it is my own hope that those friendly relations, at a personal level, will not be affected by the decision of the Government in Madrid not to proceed with the Lisbon Agreement.

For the period of three months since the partial opening of the frontier, we in the Government took the view that, before any steps were taken, we should have a clear idea of the actual effects on the economy. We also, of course, had in mind what we thought, in spite of the experience of the past, was a solemn undertaking to implement the Lisbon Agreement in the Spring and that we should therefore, for this reason also, await the development of events.

There now appears to be little prospect of the Agreement being implemented in the foreseeable future - if, indeed, the Spanish Government intends ever to implement it. It is our view, therefore, that the partial opening of the frontier must now be approached strictly on the terms in which it was announced. The first point is that it was intended for humanitarian reasons and that is how, in our view, it should be interpreted. By 'humanitarian' we understand primarily the opportunity for relatives on the two sides of the border and friends to see each other frequently and at less inconvenience and expense than before.

The second point made by the Spanish Government was that it had to protect the Spanish economy, including Malaga airport. This protectionism has manifested itself in a total ban on the importation of any kind of goods from Gibraltar into Spain. People have been prevented from taking their fishing

rods in order to take part in an angling competition and difficulties were placed in the way of a Gibraltarian guitarist wishing to take part in a charitable concert in Spain. It seems that the exportation of a football trophy and the importation of a butterfly and a beetle also endanger the Spanish economy. It is difficult, in these circumstances, to understand talk of cultural, sporting and other contacts. Indeed, as I have already said, it is now difficult to believe the statement, repeated over the years, that the Spanish Government respect the interests of the Gibraltarians. It now seems clear that they do not.

Be that as it may, we are now, I believe, fully entitled to take such steps as may be necessary and desirable to protect Gibraltar's economy in this new situation. To this end, the Government has considered a number of possibilities and I have already had preliminary discussions with the Leader of the Opposition and the Hon J Bossano and arrangements will be made for further discussion and for an early meeting with the Chamber of Commerce and the Gibraltar Trades Council. There will also be consultation with the British Government.

As the House will appreciate, this is a complex matter. On the one hand, it is desirable, in the general economic interest, that Gibraltar's traders should prosper. On the other hand, the Government must also consider the interests of the individual consumer in areas where, either apparently or in reality, advantage has been taken of the lack of competition in recent years. It is the Government's objective to try and reconcile these different interests and to act accordingly. Nearly three months ago, in my New Year Message, I said that we had to look to the general good of the economy and the need to ensure that we do not undermine it by our own acts but that the local trader had also to be careful to ensure that his own position was one of fair and reasonable competitiveness.

The possibilities of action to which I have just referred relate primarily to the question of imports from Spain which are undoubtedly affecting some sectors of the economy, although the precise extent of the effects is not easy to determine.

The second, and perhaps more important aspect, is that of personal expenditure in Spain by Gibraltarians on recreation, restaurants, travel, care hire, etc. Here too there are difficulties in quantifying precisely but the best advice I have is that this kind of expenditure is even more damaging to our economy, overall, than the importation of goods, even though the latter is also a cause for concern.

Gibraltar is a free society and people are entitled to spend their money where and how they wish. I have so far refrained from expressing a view on this matter publicly because we had been led to believe that the Lisbon Agreement would be fully implemented in the Spring and that the situation since 15 December, 1982, would be transient and short-lived. Now that

we know that this will not be the case, I have no hesitation in stating quite clearly that it is the firm view of my colleagues and myself that people should consider very carefully indeed the damaging effects on our economy which will result from a continuing high level of spending in Spain.

We are, of course, fully aware of the complexities of this matter. We fully understand the desire of people who have been confined to a small and overcrowded territory to take advantage of the leisure and recreational facilities available next door. We also fully understand that, for example, prices in restaurants in Spain are very attractive. We know that there are certain groups of people who have been able, because they possess the means and privileges, to enjoy over recent years the facilities to go to Spain which have only recently become available to all. But with the present discriminatory regime applied at the frontier, the more money that is spent in Spain which would otherwise be spent here, the more damage that is done to the economy as a whole and initially, in particular, to the private sector where jobs may soon be at risk.

However complex the situation may be, it is nevertheless the responsibility of the elected Members of this House, after carefully weighing all the arguments, to come to a conclusion and to express their considered judgement on the matter. The judgement that my colleagues and I have arrived at, after the most searching and detailed discussion, is that a continuing high level of personal expenditure in Spain would be detrimental to the interests of Gibraltar and that it is our duty to point this out and give guidance accordingly.

I do not mind saying in this House that it is a great disappointment that so many Gibraltarians should have flocked to Spain, in their thousands, in such a hasty and indiscriminate manner. I know that there are some who have not done this at all, but many others appear to be doing little else. These same people will turn to and rely on their political leaders to protect and defend their interests generally but, in the meantime, they are enjoying themselves in the hinterland, businessmen spending their locally made profits, and employees the UK parity wages they earn here, thereby undermining the economy of Gibraltar, again, because of the discriminatory way in which the opening of the frontier is operating.

Are Gibraltarians 'panzistas'? I should like to think that the majority are not. Are they people who want the best of both worlds? Good profits for some - a guaranteed parity wage for others? And the opportunity to spend their money there, thereby affecting our economy and our prosperity?

I know full well - and I have written to the Governor expressing my shock and surprise at the outcome of last week's talks in London - just how untrustworthy the Spanish Government is over Gibraltar. But this in no way excuses

the actions of so many Gibraltarians over the last three months. I hope, at least, that the fact that it is now clear that the Spanish Government apparently has no intention of implementing the Lisbon Agreement in the foreseeable future will make many people think again about their attitude in relation to continuous spending in Spain. I must make it very clear that I am not referring to family contacts and that, in this sense, the humanitarian aspects must at all times be respected.

Quite apart from any view that people outside Gibraltar might form over the behaviour of Gibraltarians in the last three months, we could also be placing at risk the support of the British/Gibraltar Group in Parliament. I do not believe that the British Government will ever renege on its commitment, written into our Constitution, to support the freely and democratically expressed wishes of the people of Gibraltar, but I believe we are in danger of losing a great deal of the massive support we enjoy in Britain if it were to be thought there that we want British citizenship and British political protection while, at the same time, a good number of our people regard Spain as their playground or as a means of commercial profit prior to the implementation of the Lisbon Agreement.

I am, of course, fully aware that these remarks are not going to be universally politically popular. But, a number of us have fought very hard over the last twenty years to protect Gibraltar's identity, its political integrity and its economy. We live in a democracy and if it is the wish of the majority that we should not take a strong line on this issue, so be it. But I cannot believe, after all these years, that this is the case and, if I am right, then people must awake to the true situation and demonstrate this through their actions.

It may be thought that I have said some harsh things. I have done so. But I believe they needed to be said. Gibraltar is a democracy and, if what I have said is not representative of the views of the great majority, we shall know the answer in the very near future in the sort of response that we get to the views I have expressed.

I do not wish to be negative. My recommendation, and that of my colleagues, to the people of Gibraltar is that we should continue to maintain the posture we have adopted over the last twenty years. Our identity as Gibraltarians and our attachment to Britain are the principles which have sustained us in our resistance to Spain's pressures. We think that the majority of us still believe deeply in these principles and that these should be uppermost in people's minds when they ponder on what I have said. If we do not, then let us accept the suggestion made in 'The Times' on 19 March that there should be a referendum in Gibraltar.

But, if there is to be such a referendum, let it be an honest one. Let not the votes in such a referendum be in favour of the continuation of our links with Britain, in a political and constitutional sense, while so many people establish commercial and recreational links with Spain in circumstances which are having a serious effect on our economy because of the way the frontier is open.

It is our hope that Hon Members opposite will share and support the views I have expressed.

HON P J ISOLA:

Mr Speaker, on this side of the House we did express, as you will recall, great scepticism in the December debate last year on the manner of the opening of the frontier and the partial opening that had occurred. We were suspicious of the way it was being done and we have been extremely concerned at the consequences for Gibraltar of the partial manner of opening. We, too, of course, agreed to see whether, in fact, give the benefit of the doubt to the new Socialist Government of Spain with these fantastic ideas that they were putting forward, we gave an opportunity to the Spanish Foreign Secretary who had told us in a television interview last July how much he was against any restrictions on the border and that the solution of the problem, nothing to do with restrictions, and that if the Socialists came into power they would take them all away and so forth but once they did get power, Mr Speaker, he ran true to form and really he has been no different than any Foreign Minister of Spain whether of the Right or the Left, of Franco or anybody else. The principles that they apply to their own country they are not prepared to apply to Gibraltar and the statement of the Foreign Minister after his meeting with the British Prime Minister in London I am sure has left everybody in no doubt at all that the Spanish Government may have no intention of honouring the agreement solemnly entered into by their predecessors. I know that this is welcome news to my Hon Friend Mr Bossano who has always proclaimed himself against the Lisbon Agreement but I do not envy the allies he has in this. The present Spanish Government seem to think the same way as he does and I would be a bit nervous and uneasy to find myself in the same bed as them but be that as it may, Mr Speaker, on this side of the House as Hon Members are aware I have in fact put down a motion in the House which asks the Government to take any measures necessary to protect the well-being of the Gibraltar economy and I think that the statement by the Hon and Learned Chief Minister provides an excellent background, if I may say so, or an excellent preparation for that debate where Hon Members will be able, I feel, to try and translate feelings properly expressed by the Chief Minister of how people in Gibraltar should be feeling at this time, to translate them into some sort of positive measures to protect Gibraltar from being dismembered and ruined after eighteen years of putting up with

a blockade and putting up with severe restrictions and throwing away the advantages that we have gained for ourselves during that time and we certainly on this side of the House agree entirely that the people of Gibraltar should reflect very much on the situation that exists today, should reflect very much that the Spanish Government has once more shown itself to be quite insensitive to the true principles of democracy where the people of Gibraltar are concerned and there is a need, Mr Speaker, for a positive response from us in Gibraltar not only in our own interests but also in the vital interest of protecting Gibraltar and keeping Gibraltar for what we know it to be and what it has been for so many years and preserving it for future generations. Mr Speaker, there is a lot that has been said by the Hon and Learned Chief Minister with which we on this side of the House fully agree and I hope that in the debate that will follow on my motion it will be possible for Hon Members, especially colleagues of mine who I know have very strong views on the matter, to give their own feeling and their own reaction to the present dangerous situation for the Gibraltar economy. There is all the world of difference, Mr Speaker, between a partial opening of the frontier which is completely discriminatory, which only allows certain people to go through and does not allow others, does not allow GBC to go in with their equipment, does not allow people to go in with their fishing rods and all that, and a frontier that has no restriction, that is fully open between two civilised countries and in which then in that sort of situation it is my belief that the Gibraltar economy and the people of Gibraltar could rise to the challenge and, if anything, improve the standards of living to which we are accustomed because that, after all, is one of the main purposes of the exercise. Mr Speaker, we would support the statement made by the Chief Minister in its general terms and hope to enlarge on our own views in the debate that will follow in later proceedings of the House.

HON J BOSSANO:

Perhaps let me just say that the degree of consultation that there has been at this stage is in fact to be forewarned of, roughly, the nature of the statement and therefore as far as I am concerned and my party is concerned, we shall have to look at the measures and judge them on their merits if and when measures are going to be announced to deal with the consequences of the action.

HON CHIEF MINISTER:

I am sorry, perhaps the Hon Member misunderstood. Precisely to see what measures, the consultation will take place.

HON J BOSSANO:

Let me say, Mr Speaker, that in looking at the situation obviously I am looking at it from a different perspective to other Members of the House precisely for the reason the Hon and Learned Leader of the Opposition has mentioned, that I and my party have opposed the Lisbon Agreement from its inception and its non-implementation is welcome to us. That does not make us bed fellows with Señor Moran because in fact we were not prepared to sit with a British delegation to discuss Gibraltar's future or anything else that the Spanish delegation might wish to raise and that, I think, hardly qualifies us for the description of bed fellows with anybody from the other side of the frontier. It would appear to me, Mr Speaker, that the assessment of the British Government coincides more with the assessment of Mr Pym than with the assessment that we make of the situation because Mr Pym said in the House of Commons that the implementation of the Lisbon Agreement will be of economic benefit to Gibraltar which is something that I would disagree with and something that the Government itself has said would have to wait and see whether it is or it isn't. But if, in fact, Mr Pym believes it is of economic benefit and if the Spanish Government believes it is to be of economic benefit, let nobody in this House be in any doubt or mislead anybody outside this House into thinking that the Spaniards are going to take any action of economic benefit in Gibraltar without demanding something in exchange. And if we are not prepared to give anything in exchange then we must be absolutely clear that that will not materialise, whatever it is called, whether it is called the statement, the Strasbourg process or anything else, if there is no quid pro quo it will not materialise. My position was that I was convinced that we would be required to give things in exchange and that the economic benefit would not materialise anyway because I do not think it is there. As far as looking at the situation today I think it would be a mistake to try and exonerate the people of Gibraltar for the consequences of their action by pinning the blame on the Spanish Government and saying we are being subjected to restrictive discriminatory treatment or that there is a Spanish campaign to undermine the economy of Gibraltar. The economy of Gibraltar is not being undermined because of the lack of people coming in, it is being undermined because of the number of people going out and nobody is forcing them to go out, the fact that there is an open frontier does not oblige anybody to go there and visit their relatives and then go off for a weekend and spend £100. If we are looking at people's right and freedom to choose to spend their money where they want and I do not think we have got the right in a democracy to deprive them of that, what we have got is an obligation of pointing out to them the consequences of their actions and in fact not to try and say that we are being victims of anything other than our own shortsightedness. I think in a situation such as this, Mr Speaker, the analysis, and I think the Hon Member is right in saying that possibly the greatest impact on the economy

is a switch in the pattern of expenditure away from consumption of certain goods purchased previously in Gibraltar not in substitution of those goods by others which are being imported but in spending it on doing other things, on having leisure activities which previously was beyond their reach. It is an extremely difficult thing to control if it has to be controlled by decree, it is a very simple thing to control if people are willing to exercise self-discipline. I think the only thing the House can say to the people of Gibraltar is where the fifteen Members in this House stand and let others stand up and be counted.

MR SPEAKER:

I will then call on the Hon and Learned the Minister for Health and Housing to make his statement.

HON J B PEREZ:

After very careful consideration the Government has now decided to transfer the responsibility for the allocation of all Government-owned housing excluding Government Quarters from the Minister to the Housing Allocation Committee. Government Quarters will continue to be allocated by the Quarters Allocation Committee.

In future the allocation of post-war and modernised accommodation will be the responsibility of the Housing Allocation Committee and will continue to be made strictly on pointage awarded to the applications in accordance with the provisions of the Housing Allocation Scheme. Pre-war accommodation will be allocated by the Housing Allocation Committee on the advice of the Housing Advisory Committee.

The recently constituted Medical Board will advise the Housing Allocation Committee on the award of medical points or medical categorisation under the scheme and on the allocation of the 20% provision for cases in the medical category.

The composition of the three Committees will be as follows:-

- (a) The Housing Allocation Committee will consist of -
 - (i) an independent Chairman
 - (ii) three independent members (one of whom is to be nominated by the Gibraltar Trades Council)
 - (iii) the Public Buildings Inspector of the Public Works Department who will advise on the technical aspects of buildings, both pre and post-war, on cost effectiveness and on the estimated costs of materials for rehabilitation of flats. He would also be in a position to say whether accommodation becoming

available had been earmarked for a future project and, if so, indicate whether any date had been set for the commencement of work.

- (iv) the Housing Manager, who will have an advisory role and be the Secretary.
- (b) The Housing Advisory Committee will consist of four members -
 - (a) the Public Buildings Inspector of the Public Works Department, who will be the Chairman of the Committee
 - (b) a representative from the Department of Labour and Social Security
 - (c) a medical practitioner
 - (d) a representative from the Housing Department.
- (c) The Medical Board will consist of -
 - three consultants in different fields of medicine.

Mr Speaker, I feel that the transfer of responsibility together with the re-constituted Committees and the recently published Waiting List will improve substantially the machinery for the allocation of all Government-owned housing.

I must also place on record that this matter has been under consideration for some time by Government and that all the ground work has been carried out by my predecessor the Hon Horace Zammitt.

HON A J HAYNES:

Mr Speaker, it seems that the Government in exile ie the Opposition, have finally had their way in the Housing Department. The Minister failed to remark on the ground-work done by the Opposition and I count my predecessors in Opposition, in laying the foundation for this move which is long overdue, I may say. In principle, as one would expect from a party which has had these two major pillars in its policy for housing printed in its manifesto, we approve, in principle we approve the measures to be introduced by the Housing Department. We will, of course, wait for the practical outcome and the working ability of these Committees before we extend that approval to a full acceptance. I think that is all I want to say, Mr Speaker.

BILLS

FIRST AND SECOND READINGS

HON ATTORNEY-GENERAL:

Mr Speaker, the Traffic (Amendment) Bill is not ready to proceed at this stage.

MR SPEAKER:

So you are not going to proceed with the Traffic (Amendment) Ordinance.

HON ATTORNEY-GENERAL:

No, Sir.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS AS TO NOTICE) (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be read a second time. Sir, the purpose of this Bill is to further extend the moratorium introduced by the 1981 Principal Ordinance during which period neither notice to quit can be given nor may rents be increased under any contractual or statutory tenancy. The necessity for the Bill, Sir, arises because of the fact that the review of the Landlord and Tenant legislation has still not been possible to be completed and therefore the extension date would be until the 30th of June, 1983, by which time it is expected that the Bill will be completed. There is one matter, Sir, which will be dealt with in Committee and that is the proposal in respect of business premises where there is no dispute between the landlords and tenants as to the renewal of a business premises, what remains to be negotiated is the new rental under the renewal. If there is no dispute as to the renewal it follows that there continues to be security of

tenure and this is a matter therefore which the Government considers that it can look at in Committee with a view to providing that in notification of those premises there could be some revision of the rental between now and 30th of June. That is a matter which will be considered further in Committee. 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 P J ISOLA:

Mr Speaker, we support this but not very much in spirit because it is unfortunate that on a matter so vital as landlord and tenant we seem to be having some delay. Mr Speaker, as we have been told by the Chairman of the Select Committee that the House will shortly be receiving the report of the Select Committee, I suppose we must restrain our excitement at the prospect and exercise patience and await the report. Mr Speaker, the only thing that worries me is that the extension now until the 30th of June may well mean that if there is to be a new Landlord and Tenant Ordinance, the House will be asked to pass the Landlord and Tenant new Ordinance through all its stages in the June meeting of the House and I must give warning that we would be very, very reluctant to do that on a matter so important unless we have the legislation with us at least a month before we are expected to debate it. It is important, the new Landlord and Tenant Bill, not only from the point of view of the local market, if I may call it that, tenants in Gibraltar and so forth, but it is also very important, Mr Speaker, from the point of view of development and I hope that the Select Committee, I am sure that the Select Committee, have taken account of that, that there will be a need to bear in mind the very substantial development that Gibraltar is going to require if it is to survive as an economic unit and the Landlord and Tenant Bill could play a very decisive part in this. I think the last time we had a Bill before us asking us to extend the moratorium on this Bill I did say, and I say it again, that I hope that the Select Committee have been advised of the provisions or of the recommendations contained in the report on the diversification of the economy which I know is available to Government Ministers. I have had it but it has only been available to me but I think that my Hon Friends in the Committee have certainly not seen it nor have they been told about its contents. I hope I can be assured by the Chairman that the Committee has had and has been able to look at the provisions about the diversification of the economy report that relate to landlord and tenant insofar as it concerns diversification and future development of the economy because if they have not then I fear that the legislation that will

come forward may, whilst pleasing some, result in a stultification of development in Gibraltar that could have very serious consequences for the economy. This is why, Mr Speaker, I am extremely anxious that if everything is to be done by the 30th of June, that that report of the Select Committee should be circulated to Members and especially to Government Ministers connected with development and with the economic position of Gibraltar at an early stage so that we do not find ourselves passing a Bill that could have bad results for the economy quite apart from the effect it could have anyway on the internal parts of Gibraltar. The Landlord and Tenant to my mind is a most difficult subject in trying to relate and trying to balance the interests of landlord and tenant but forgetting them both for a time, trying to create a situation which encourages people from outside to put in vast sums of money into Gibraltar to create development, to create jobs, to create opportunities. I know it is very difficult to balance this but I hope that the Select Committee has had all the information that is required in this respect. Mr Speaker, we support the Bill but I do hope that my words, especially about giving us plenty of time before being asked to put a Bill through the House at all stages, if we were asked to do that and I suspect that is going to be the position, then I give notice that certainly it would be totally wrong if that draft Bill was not published a time ahead of it being discussed in this House.

HON CHIEF MINISTER:

Mr Speaker, it would have been easy to show a little complacency and have extended the moratorium longer but I deliberately thought that it would be only fair to extend it for another three months only if in fact and certainly there is no intention by that in curtailing the full discussions of the Select Committee's Report and any draft Bill that is brought in that respect even if it means an extension for another month or two, this is certainly not the intention. I would like to say that we have received representations from the Property Owners Association in respect of one aspect of the Bill which they think is fair should be dealt with which we propose to do in Committee and that is to allow the giving of notices in respect of landlords notices or tenants notices when there is no opposition on the part of the landlord for the granting of a new tenancy. At this stage I think we should, other than that amendment, try and pressurise the speed of the production of the Committee's Report in order that we can discuss this matter and certainly have the time that the Hon Leader of the Opposition has requested. We certainly do not want a measure of this kind, I am not referring to this Bill but to the question of landlord and tenant which has been pending for so long in any way to rush the House at all.

MR SPEAKER:

Does the Hon and Learned Attorney-General wish to reply?

HON ATTORNEY-GENERAL:

Sir, I think there is nothing I would wish to add except that I have myself noted what the Hon and Learned Leader of the Opposition has said. 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 this Bill be taken at a later stage in the meeting.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Sir, before the Companies (Taxation and Concessions) Ordinance, 1983 is moved I wish on this occasion to move the suspension of Standing Order 30 and I would like to explain why. The reason it has been necessary to do this is because the Bill has only been published very recently, I appreciate. This Bill originally set out to make certain amendments to the Companies (Taxation and Concessions) Ordinance which I will not anticipate now. There has also been for some considerable time a strong demand for further copies of the Ordinance which is to be amended and it seemed to me that it was a good opportunity to incorporate the amendments into a complete rewrite of the Bill and in the circumstances I regret having to seek to waive Standing Orders but it was not possible to complete the rewriting and check it properly until after the due date.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

THE COMPANIES (TAXATION AND CONCESSIONS) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to provide for concessions in relation to income tax and estate duties in respect of certain companies registered in Gibraltar, and for the imposition of a flat annual tax, and for matters relating thereto, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Bill be read a second time. As the Hon and Learned Attorney-General has just mentioned, the Ordinance would replace the Companies (Taxation and Concessions) Ordinance of 10 March, 1967, which is being repealed primarily for presentational reasons. It needs streamlining following the abolition of exchange controls in 1979. Accordingly, in the new Bill all references to authorised depositories, the scheduled territories and residence for exchange control purposes have been removed. In addition, Sections 11 and 12 of the Ordinance which deal with the issue of bearer certificates and coupons by tax exempt companies require amendment since there are no longer exchange control barriers to the issue of bearer or foreign currency securities. The issue of bearer securities would now be allowed so long as they are deposited with a bank, not necessarily in Gibraltar, for the benefit of persons approved as shareholders and the bank does not part with them without permission. An important new feature is the proposed extension of the taxation and concessions facilities to foreign registered companies. As Section 3 of the Ordinance stands at present only locally incorporated companies may register. It has been represented that Gibraltar's use as a financial centre would increase substantially if the facilities were accorded to foreign incorporated companies which register under Part IX of the Companies Ordinance and would otherwise qualify for exemption. Important companies could be interested in operating offshore branches in Gibraltar for this reason but are being prevented from doing so by the substantial capitalisation which a locally registered subsidiary might require. An annual tax of £500 is proposed for such companies. The facilities, however, would not be extended for the time being to insurance companies. To do so would only add to the problems we have in that area at present. I stress, Mr Speaker, that this should hopefully only be an interim measure until we have a strong insurance supervisory system backed by suitable legislation. The Finance Centre Group who have been consulted in the preparation of this Bill, has suggested to the Government that there is no need to legislate for this aspect since the issue of exemption certificates is entirely discretionary. However, we are looking at this and we may be introducing an amendment at the Committee Stage of the Bill. In future, Gibraltarians and residents would be allowed to acquire an interest in tax exempt public companies in any overseas country if the shares of those companies are quoted on a recognised stock exchange. At present such interests may

only be acquired through the vehicle of UK public companies whose shares are quoted in the London Stock Exchange. Section 7 of the 1967 Ordinance restricts transactions in tax exempt company shares but there is the proviso that if shares are registered in the name of trustees the restrictions do not apply to the acquisition by transfer, sale or otherwise of an interest in the company by a new or substituted beneficiary under the trust. As shares are now frequently held through trusts and nominees, the proviso could be used to circumvent the vetting that is done of applicants, particularly of companies whose business involves the acceptance of money or other assets from the general public. For this reason it is proposed that the Section should be amended so that the terms of the proviso no longer apply to such companies or to cases giving rise to apprehension that persons who would not have been acceptable as shareholders on an original application for exempt status, may have acquired an interest in an exempt company under the provisions of the Section. There are also minor machinery changes to Sections 10(3), 13 and 15 of the Ordinance. I should perhaps explain that Section 15 of the Ordinance (which sets a penalty of £25 for companies in default of payment of its annual tax seeking reinstatement) that an undesirable practice has crept in with regard to the payment by companies of first instalment of the tax. The section provides that the penalty is not payable if all arrears of tax are paid within thirty days after the day on which the tax became payable. Although this was originally only meant to meet the situation of on-going companies, the grace period is also being taken advantage of by newly registered companies to get round the provisions of Section 10(3) which requires the first instalment of tax to be paid within thirty days from the date of issue of the exemption certificate. Because of Section 15(2) such first instalments are now rarely paid within the prescribed period. The new wording in the proviso to this Clause will remedy the matter. Mr Speaker, Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, let me say first of all that we welcome the idea of having a Bill bringing everything up-to-date and having everything in one Ordinance and saving people the trouble of having to go looking at all the amendments that have been going on and in this particular case where this is something that would be required for lots of people outside Gibraltar, it is particularly welcome. The Bill, as the Hon the Attorney-General has explained has come a little late because he wanted to present the full Bill. I think it is proposed that this Bill should go through all its stages

tomorrow and what I would like to be assured by the Financial and Development Secretary is that the people that he referred to, I think the Finance Group, who have been advising or recommending or asking for this Bill, have actually seen the text of the Bill before the House as opposed to what they have been recommending, that they have actually seen the text and have no comments to make on it. Normally this would happen but as the Bill only came out very recently I would certainly like to be assured that this is the case. That is the first one. The second point, Mr Speaker, we welcome the Bill and there is only one point I would like to make, Mr Speaker, not one, one or two more. The penalties have been brought up-to-date for people who do not do things, breach of secrecy provisions and so forth, the penalty is £1,000 for anybody who discloses anything. Is there any particular reason why there hasn't been included as well a short term of imprisonment because the secrecy provisions are, as I am sure the Hon Financial and Development Secretary will realise, extremely important and whereas fines may not be such a deterrent I think the prospect of a prison sentence as well for disclosures could act as a bigger deterrent and I wonder whether provision could be made on that rather important point of secrecy because whether Gibraltar develops as a Finance Centre or not depends very greatly on the confidence that is established between outside people and local Government officials. I understand representations have been made on the question of companies registered under Part 9 who will come in and be eligible for registration as exempt companies. I know a problem has arisen in this respect and I hope that it can be cleared up before the next Christmas meeting of the House because from what I hear it seems to me that without that particular problem being cleared up the benefit to the economy of these people paying a fixed £500 a year may not occur. I hope serious consideration will be given to that and I didn't quite understand what the Financial and Development Secretary said about companies that are taking advantage of not paying their tax when they are first registered. Let me tell the Financial and Development Secretary from personal experience that because of the postal services that exist, I am not referring just to Gibraltar but internationally, meeting the deadline of thirty days from the date of registration as far as the tax is concerned is not really a very practical proposition in a number of cases, that has been my experience, unless the people who have applied for exempt status are already in funds to pay or they want to pay it themselves and trust that they will get paid. My own experience is that whereas they tend to wait for thirty days in the annual payment, the first payment is not always possible to make within the thirty days because of the postal problem, this has been my experience, so I hope it is not too hard on the first registration and then he can be as hard as he likes on the people who do not pay up at the end of the year. Thank you, Sir.

HON CHIEF MINISTER:

Mr Speaker, with regard to the first point made by the Leader of the Opposition, the Finance Centre Group had asked for an interview with me before the preparation of the Bill which I had fixed for yesterday to make sure that I didn't get Easter coming and delay the matter but by that time they had a copy of the draft Bill and in fact I had a meeting with them and with the Finance Centre Adviser and, in fact, the meeting mainly concerned looking at this Bill even though in fairness to them they had had very little time to look at it but they had had enough time to make a number of suggestions most of which can be met and will be met in the Committee Stage. So that part of the point raised by the Leader of the Opposition, the first point, I can assure him that that has been the case. I met the three lawyers of the Finance Group yesterday with the Finance Centre Adviser. With regard to the second point I am glad that the Hon Member has given notice that there is concern about the other aspect in respect of Part 9 and that he hopes that we should have something at the next working session. Well, I am grateful for that because we are trying to be in the position to be able to bring an amendment that will be acceptable which of course has only been suggested in the last three or four weeks by the Centre Group, let it be said, despite the fact that it is so important now but, anyhow, we are trying to clear the line to be able to bring an amendment that will not meet with difficulties elsewhere and I am glad that that will not be dealt with at this meeting because otherwise it might have been counter productive, for that I am grateful.

HON J BOSSANO:

Mr Speaker, I am not very sure whether this amendment to which both the Hon and Learned Chief Minister and the Leader of the Opposition are referring, is something to amend something we are doing now or something to amend something that already exists? We are not putting something in the law now only to amend it in a month's time?

HON CHIEF MINISTER:

Perhaps I should put it this way. Those parts of the Bill which would have been an amendment if it had not been incorporated in the whole Bill are the ones on which suggestions have been made. There is no question of looking at the whole spectrum, the matters that are being reproduced are the same as before but in the areas where the amendment which have prompted the publishing of the whole Bill.....

MR SPEAKER:

The new areas, in other words.

HON CHIEF MINISTER:

The new areas, it is in those areas where they have suggested some element of betterment for the working of the whole Bill. I hope that is clear.

HON FINANCIAL AND DEVELOPMENT SECRETARY: -

If I may, Sir, I think that the Hon Member is asking whether the amendment we would bring to the next working meeting of the House would be in relation to this Bill. It would in fact be in relation to the Companies Ordinance.

HON ATTORNEY-GENERAL:

Mr Speaker, I would like to speak briefly to the Bill on three points. The first is that I can tell the Hon and Learned Leader of the Opposition that the only changes in the Bill, the only substantial changes and we have taken the opportunity to we think tidy up things like paragraphing but the only substantial changes are the amendments which were originally proposed as an amending Bill, the rest of the Bill follows the established Companies (Taxation and Concessions) Ordinance which the Hon and Learned Leader of the Opposition and the Hon Financial and Development Secretary have told us now has a vintage dating back to 1967 but these are the only changes. As far as penalties are concerned I think the change from a fine to imprisonment is really something of a change of principle. We are really only concerned to increase the fines which are the only penalties at present provided in this Bill and so we have not considered the question of imprisonment. I must say my own inclination is against imprisonment, a fine is the appropriate penalty. The other matter I might mention which is really quite incidental to the Bill as such but Members may like to know that if the Bill is passed by the House when it comes to be published as an Ordinance we will take the opportunity to make ample copies available.

MR SPEAKER:

Does the Hon Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker, I do not think so except to say that I have noted the points made by the Hon and Learned Leader of the Opposition on the thirty-day rule. Mr Speaker, I commend the Bill to the House.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE PENSIONS (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, in this case as well I regret that I have to move the suspension of Standing Order 30. This Bill was in fact published a day after the 7-day deadline.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Bill be read a second time. I notice with interest looking back into Hansard, a habit which I picked up since I came to Gibraltar, I have been led to it by my elders and betters, that one of my first speeches in this House related to the fact that we were going to introduce this Bill, that was in 1979 in October, and we have just got to it and not all of it at that. Anyway, having said those few words of introduction, the Bill before the House, Sir, is to amend the Pensions Ordinance, it is designed to give legal effect to the resolution passed by the House on the 31st October, 1979, to the effect that shift allowances should be included as pensionable emoluments as provided for in the shift agreements that have been in force for the last few years. It had, Sir, initially been intended that the resolution should be given legal effect by a declaration made by the Governor-in-Council. This was possible in respect of non-industrial pensionable officers who fall under the Principal Ordinance but the Attorney-General advised this could not be done in respect of industrials who are non-pensionable employees thereby falling under the Pensions Regulations. However, the Attorney-General further advised that an amendment of Section 2 of the Principal Ordinance changing the definition of weeks

wages, weekly wages pay and week pay to include any allowance would be sufficient to govern the expression where the words appear in the Regulations thus enabling the Governor's declaration made under Section 2 to have legal effect over industrials and other non-pensionable officers. Pending the enactment of this amendment to the Ordinance, pension benefits which would become due in respect of shift disturbance allowances have been paid by administrative arrangements on my authority given under the Public Finance (Control and Audit) Ordinance. Mr Speaker, 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 J BOSSANO:

Mr Speaker, obviously, I welcome the fact that the Government is actually legislating something that I thought was already legislated. I think the original motion was moved by me in 1979 and was carried unanimously and certainly I think the impression that the workforce has had is that the matter had been in fact incorporated in the Pensions Ordinance for everybody.

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.

THE SUPPLEMENTARY APPROPRIATION (1982/83) (NO 2) ORDINANCE, 1983

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 £1,322,543 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 5) 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 £13,000 as set out in Part 2 of the Schedule to the Bill and detailed in the Improvement and Development Fund Schedule of Supplementary Estimates (No 5) of 1982/83 which I also tabled at the beginning of this meeting. Sir, Hon Members will doubtless discuss in detail at the Committee Stage the provision sought, I would however draw attention to the fact that some £1.22m of the amount sought is to make an increased contribution to the Electricity Undertakings Fund and Potable Water Service Fund. This is as we have done every year for the past three years that I have been here to try and bring up on our best estimate the amounts outstanding at the end of the year on these funds so that we start off in the new financial year with, as it were, a clean sheet. The actual amount required under the Potable Water Supply Service and the Electricity Supply Service have in fact already been voted. In order to anticipate, if I may, because it has happened on two previous occasions, a question by the Hon and Learned Leader of the Opposition as to how we would stand at the end of this financial year given the Supplementary Appropriations which we have had which with this will come to some £2.99m for the course of the year, I would say that mainly as a result of underspending by Departments in other areas, our projection is that we are on course and that there will be a very small surplus for 1982/83 of about the amount that was envisaged this time last year when the draft estimates were presented to the House. Mr Speaker, 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 P J ISOLA:

Mr Speaker, the only thing I would like to give notice to the Financial and Development Secretary is that at the Committee Stage I think we would welcome a fairly detailed explanation on this question of fuel costs which we raised last time in this House when we voted supplementary provision in respect of fuel and we are now being asked to vote

again quite a large sum although I think, I may be wrong, it seems that from what I have heard the Financial and Development Secretary say we have already voted this money apparently and is this just switching it from one fund to the other?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is an accounting device, Sir.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

The House recessed at 7.05 pm.

THURSDAY THE 24TH MARCH, 1983

The House resumed at 10.40 am.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

- (1) The Licensing and Fees (Amendment) Bill, 1983;
- (2) The Law Revision (Miscellaneous Amendments) Bill, 1983;
- (3) The Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) Bill, 1983;
- (4) The Companies (Taxation and Concessions) Bill, 1983;
- (5) The Pensions (Amendment) Bill, 1983, and
- (6) The Supplementary Appropriation (1982/83) (No 2) Bill, 1983.

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

THE LICENSING AND FEES (AMENDMENT) BILL, 1983

Clause 1

HON ATTORNEY-GENERAL:

I beg to move that Clause 1(2) be amended by the deletion of the word "March" and the substitution thereof of the word "May".

Mr Speaker put the question which was resolved in the affirmative and Clause 1, as amended, was agreed to and stood part of the Bill.

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

Clause 3

HON MAJOR R J PELIZA:

Mr Speaker, I would just like to point out something on this particular clause. When I spoke earlier on the general principles of the Bill, I declared an interest and of course I will declare an interest again. I think this is a very welcome Bill for the reasons which I expressed then but there is, however, one point that one should bear in mind and that is that there is a possibility of creating monopolies under the Bill and this is caused mainly because of the copyright which in my experience is so connected with the actual product itself that it cannot be acquired separately and because of the nature of the produce which is one and no other and it must be that or it is just not available, it could in the hands of any distributor established in Gibraltar really create a monopoly of a nature that would be costly to the clubs who are renting the films and also of course, eventually, to consumers themselves. I have given thought as to how this could be overcome in the Bill and I do not think it is possible to do it here. But perhaps the way to look at it is if this were to happen, and I am not saying it will, but if this situation were to arise, I hope the Government will give serious consideration to implementing price control if that were the case. I do not think, as I say, that it may necessarily arise. It is very easy to find out whether there is undue profiteering in that line in that the films are available in the United Kingdom without the copyright of the wholesalers at certain prices that can be made available but as I expressed before it can be made available but they cannot be used in Gibraltar. Therefore it is easy to assess whether there is profiteering or not and perhaps the Government can give an undertaking that if that were to happen then of course the Government should not hesitate in implementing price control on those particular items.

HON CHIEF MINISTER:

Sir, we are treading on rather dangerous grounds in this Bill to some extent in an endeavour to protect the consumer and we cannot really go into the question of copyright which is a subject of civil legislation in interests as between parties and not for the state, the Government is endeavouring to make an element of protection of the quality in respect of the copy. Having regard to the present proliferation and the competition it isn't likely that there is going to be profiteering but if as a result of this we find in practice that it is so stringent that only a few people are allowed and then they become very demanding on the prices, which is I think what the Hon Member has referred to then of course we shall have to look at either that or whether the Ordinance is working. Certainly when we are dealing with an area which is new ground and we really don't know very well how the thing is going to work, we will keep the whole thing under review not only in respect of price control but in respect of the application generally. I don't think anybody wants to do harm other than for the purposes of protecting the people and not for the sake of harming somebody who may be making a good living out of this proliferation of shops which I am afraid is not only typical of Gibraltar but I am told it is found everywhere.

HON MAJOR R J PELIZA:

I want to make it quite clear that I welcome the Bill, there is no question about it. The only fear is since this of course now makes it a criminal offence for anyone to start renting a copy, as it should be, I am not against that, and if therefore you have a distributor for certain films in Gibraltar, the only people who clubs can acquire it from is from that particular distributor, it is possible therefore, I am not saying it is going to be done, I am saying it is possible that it could lead to profiteering through the creation of a monopoly. All I am asking the Government is if this were to happen and I am not saying it is going to happen since it is easily detectable, this is a case which is easily detectable, that they should apply price control.

HON CHIEF MINISTER:

Yes, I am going a little further. I am saying that I am concerned with how the whole thing is going to work generally.

HON W T SCOTT:

Mr Chairman, as I understand it, when we had the meeting last February when we were discussing the general principles, one of the reasons, and the Chief Minister himself has repeated the reasons behind this legislation, was to protect the consumer and it seems to me that the consumer even

without this legislation already has something going through the Consumer Protection Unit, through Trading Standards where, for example, if he receives a bad copy that he is dissatisfied with perhaps he has some redress with the Trading Standards, if not in law certainly in sympathy and there are very few shops of that nature that would not take heed of the advice given to them by the Trading Standards.

HON CHIEF MINISTER:

I think, Sir, that the improper pirating, not just copying with copyright in one place and then passing it on to another outlet is not likely to be protected like that because each case has to be looked at on its own merits and you could get a pirated copy the sound of which is good and therefore it would be a very time consuming and expensive thing to do that way. If we have agreed in principle that improper reproduction is undesirable from the point of view of the general protection of consumers then I think we must pursue that angle.

HON MAJOR R J PELIZA:

I assure the Chief Minister that what he has said is right, it is very, very difficult to track them down and of course reputable firms are just out of business, they just cannot compete, because the price of one is so much less than the price of the other that it is just impossible to compete and it is either a question of breaking the law deliberately or going out of business.

HON P J ISOLA:

Mr Chairman, I did raise at the last meeting of the House on the second reading in relation to this the question of the prosecution of offences and the need for a defendant to have to prove that it is an authorised copy and the difficulties that this involves. The thing is I want to make comments on 29(b) and 29(c).

MR SPEAKER:

We have got a notice of an amendment to Clause 3. Perhaps it should be moved so that we can then talk generally on the matter.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 3 be amended in the following manner: By inserting in new section 29(2)(a) after the words "on to it" the words "directly or indirectly" and to omit the words in the same paragraphs section 29(2)(a) the words "or films" and substitute the words "films or television images".

Mr Chairman, this is a technical amendment. After the Bill was published somebody made the point that it is possible to make a video tape not merely from another tape but also from a television image and that is why this proposal is now made. The words "directly or indirectly" are intended to throw a net as wide as possible in case there is a multi-stage process.

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

HON P J ISOLA:

Mr Chairman, I mentioned that as far as 29(c) was concerned at the last meeting it seemed to me a bit hard to depart from the normal principle that if somebody is accusing somebody else of having a copy, it is the person who accuses who has to prove the guilt of the person and not the person who is accused who has to prove that it is an authorised copy. I can see great difficulties arising for either side, I must admit, but it seems to me hard on a person who may have bona fides purchased a video film or video cassette which he then hires out to his customers to be prosecuted for it and to have to prove that the person who sold him the copy which could be somebody in London, had the authority or consent of the person holding the copyright. How does a video dealer in Gibraltar or club or whatever it is they are called, how does he go about proving that he is authorised? I just do not see how he is going to do it, he is going to be convicted. I don't know whether if one were to leave out subsection (3) altogether, for example, and just say "no person shall lend by way of business any video cassette or video tape that is an unauthorised copy", that would enable a defendant, first of all, the prosecution would have to prove it is unauthorised, and it would give the defendant the opportunity to say that it is authorised. I think it is a bit hard, I don't know whether the Hon the Attorney-General has thoughts on that.

HON ATTORNEY-GENERAL:

Yes, it is a tough provision, I agree. Can I put the case forward so that Members can consider it, we are introducing a principle of licensing for the lending of video films and we are tackling the question of the unauthorised use of those tapes and films and I think it was said at the last House that we are aware that in Britain they are looking at the question at greater length and that once we have seen how they deal with it we will look at the matter again ourselves. We are also aware that in Britain it is proposed I think to be a serious criminal offence. I recall the penalty is something like two years imprisonment and quite a substantial fine. It seems to us when we were preparing the

proposals for this Bill that if it is to be efficacious it is going to be hard to prove that a person is using a copy without authorisation. I am looking at it from the point of view of the prosecution at this stage, but it is going to be hard to prove it from the prosecution point of view. On the other hand if you look at it from the defence point of view it does seem to me that it is not impracticable for a person using a copy, I am talking about the lender, the person in the business of lending in Gibraltar, if he is in possession of tapes or cassettes he ought to know whether he can properly use them or not and I would not have thought it was an impracticable task at all for him to ascertain whether he has due authority under the person who has got the copyright to give him the power to lend, to check that out and it seems to me therefore it is not unreasonable to put the burden on him. One matter which could ameliorate the harshness of it would be if it were made clear and I must admit it is something I took to be the case anyway although when I think further on the licensing there may be some doubt, if it was made clear that the defence attempts depend on mens rea, in other words, he committed an offence if he knowingly did it. That would be one way to tackle it.

HON P J ISOLA:

That does seem to me to be a possible way out, Mr Chairman, because my experience of it is that the guy who is complaining of somebody selling a pirate copy can usually marshal the evidence and the trouble with copyright is that there are so many stages in which it can be sold down the river, as it were, this is the trouble. If the film rights have not been sold for video reproduction there is no problem, it just shouldn't be there, but unfortunately that is not the case. But I think the suggestion of the Hon and Learned Attorney-General of inserting "knowingly" between "shall" and "lend" is I think the answer, very much so.

HON ATTORNEY-GENERAL:

Mr Chairman, might I correct something. It has suddenly occurred to me that the question of mens rea should be dealt with in subsection (3). It should be, I think, not so much that the person knowingly lends a copy because everybody will know it is a copy, I think what I should have said and what I would now say is that it shall be an offence in a prosecution for a person either to prove that he does have authority or to prove that he had no reason to think that it was unauthorised. It should be tackled in subsection (3) rather than subsection (1) and I can propose such an amendment, Mr Chairman, if I might just have a moment to draft it.

HON MAJOR R J PELIZA

Could I just throw a little light on this, on how it can happen, because I don't know whether a loophole cannot quickly be found in that, for instance, the way that one can acquire a film is by buying it from a distributor but if this distributor, and there could be collusion, the distributor says he has got the copyright and the individual in Gibraltar buys it from that distributor who says he has got the copyright, it is a way of getting through it and then of course if the situation arises all he has got to say is: "I thought, at least I was not sure that I have it because the distributor in the United Kingdom gave it to me as if he had the copyright". I am not so sure that by putting that in we are really overcoming the problem.

HON CHIEF MINISTER:

We are only protecting the chap who gets video films from a reputable firm who is acting disreputably, that is to say, a reputable firm whom the distributor here has no reason to believe that he hasn't got authority to lend it which is the case that I think I mentioned at the last meeting, a case on sound tapes that I had some years ago where the company came along and visited the places and found a number of pirated tapes on sale and when the people were tackled, the reputable commission agent produced a list from a reputable firm from whom he had obtained this to distribute locally. He didn't know nor did the actual distributor, he didn't know who imported them for sale in this case nor did the actual seller know that they were pirated films and yet they were and it couldn't be disputed and they had to be surrendered. It is rather hard and when we start getting into an area of legislation which is imposing restrictions and we are treading on new ground I would rather play for safety of the individual in the first place and see whether in that way the abuse can be curtailed. I don't think we can go from one extreme to the other.

HON P J ISOLA:

I think I would agree with that, Mr Chairman, because the man also has to be believed because it would very much depend on what is reasonable cause to say I honestly thought they were authorised. He will obviously be asked why and so forth but it will depend on whether he convinces or not but at least it will avoid the position of a defendant being found guilty who has done everything in a bona fides way and is seen to have done it in a bona fides way. But while the Hon and Learned Attorney-General is looking to his amendment there is another question I had, Mr Chairman, on 29(2)(b) - "the licensing authority may attach such other conditions to the licence as he thinks fit" - that is pretty wide. What are the sort of conditions that are envisaged?

HON ATTORNEY-GENERAL:

Mr Chairman, I think if one looks at the other provisions of the Licensing and Fees Ordinance which is a very wide one, I agree, but it is usual form to have power to effect conditions on such terms as they deem fit. Can I come back to the point we were talking about before. I think there are two ways to tackle this and one is rather easier on the prospective defendant than the other. Mr Chairman, subsection (3) of 29(c) could be amended by adding either the words "or that he had no reasonable grounds for believing that it was so lent" which I think is the tougher provision because he has to make out reasonable grounds or a lesser provision would be to add the words "that the lender had no reason not to believe that he did not have that authority or consent". I have written out the first one, Mr Chairman.

MR SPEAKER:

Yes, but let us not get bogged down. If we are going to have amendments to another part of this particular subsection let us deal first with the amendment that you have proposed and then we can deal with other matters. Does any Member wish to speak on the amendment to subclause (3) as moved by the Hon and Learned Attorney-General?

Mr Speaker then put the question in the terms of the Hon the Attorney-General's amendments and on a vote being taken the following Hon 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 A T Loddo
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member abstained:

The Hon Major R J Peliza

The amendments were accordingly passed.

MR SPEAKER:

We now continue with Clause 3. Perhaps you should move the amendment and then pass it on to me.

HON ATTORNEY-GENERAL:

Mr Speaker, I move that the new subsection (3) of section 29(c) be amended by adding the words "or that he had reasonable grounds for believing that it was so lent". Meaning, of course, lent with authority or consent.

Mr Speaker then put the question in the terms of the Hon the Attorney-General's amendment and on a vote being taken the following Hon 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 A T Loddó
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member abstained:

The Hon Major R J Peliza

The amendment was accordingly passed.

HON W T SCOTT:

Mr Chairman, I am not entirely happy from the consumer side with the arguments put forward by the Government in particular the answer given to me by the Chief Minister earlier on and that is, thinking a little bit further, if there is a retailer or an individual company that has an exclusive right, for example, of one film which in itself is a copy because the original is a film, it is not a tape, and within the exclusive right that he has it also covers perhaps the distributor at a local level making copies of that the same

as the distributor in the United Kingdom is entitled to make copies, and they are all termed originals, there is nothing in this legislation to protect the consumer insofar as the standard of the film is concerned, in other words, the protection that the Government is seeking as far as the consumer is concerned for bad copies could very well still arise because the original company at a local level having exclusive rights for that video might himself also have rights to copy that at a local level and there is nothing in this legislation to protect the consumer of the standard of that copy.

HON CHIEF MINISTER:

I think the answer to that is very simple and that is that no reputable firm allows its originals to be reproduced improperly and locally. This is very, very closely supervised and in fact they are seeking further protection, let alone giving anybody the permission to reproduce. In fact the people who want to carry out this business in a proper and authorised way are endeavouring to get the company to make sure that there is not even authorised reproduction which would mean that they have to keep up to a standard distributed rather than their own. I do not think that applies very much, I do not think a reputable firm, Paramount, MGM, or one of these who have the right would delegate the right of reproducing to anybody other than people with the right kind of equipment to do so and not to deteriorate what is their copyright and which is their protected copyright.

On a vote being taken on Clause 3, as amended, the following Hon 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 A T Loddó
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

The Hon P J Isola
The Hon Major R J Peliza

Clause 3, as amended, stood part of the Bill.

Clause 4

On a vote being taken on Clause 4, the following Hon 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 A T Loddó
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

The Hon P J Isola
The Hon Major R J Peliza

Clause 4 stood part of the Bill.

Clause 5

On a vote being taken on Clause 5 the following Hon 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 A T Loddó
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

The Hon P J Isola
The Hon Major R J Peliza

Clause 5 stood part of the Bill.

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

THE LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL, 1983

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, there is one particular technical amendment I would like to make to this Bill. One clause, which is clause 2, you may recall as I said at the second reading debate, increases the amounts involved in bankruptcies and I mentioned then that the law revision commissioner will be making similar proposals for companies but at this stage they are not ready but there will be another proposal being submitted to the House for companies. I think it is important that they should be synchronised. We should not have bankruptcy figures being revised upwards until such time as the Companies one has also been considered by the House. What I therefore propose is to amend clause 1 to add a new subclause (2): "(2) Section 2 shall come into operation on a date to be appointed by the Governor by notice published in the Gazette". By that device once the Companies proposals have been considered they could be synchronised.

MR SPEAKER:

You will be renumbering of course 1 as subclause (1).

HON ATTORNEY-GENERAL:

Yes, there will be a consequential renumbering of what is at present subclause (1).

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

Clauses 2 to 28 were agreed to and stood part of the Bill.

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

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

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

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

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS AS TO NOTICE)
(AMENDMENT) BILL, 1983

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

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, I move to add as Clause 3 the following clause:

"Exception. 3. The Landlord and Tenant (Temporary Requirements as to Notice) Ordinance, 1981, so far as it relates to increases of rent but not otherwise, shall from the commencement of this Ordinance, in any case where under Part III of the Landlord and Tenant (Miscellaneous Provisions) Ordinance, the landlord consents to an application by the tenant for the grant of a new tenancy (whether that consent is given before or after the commencement of this Ordinance) and the only matter to be determined is the rent payable under the new tenancy, cease to apply in respect of that new tenancy".

Sir, if I could speak on the amendment. Although the moratorium is being extended until the 30th of June of this year, representations have been made that in the case of business premises this is causing some difficulties or some hardship and that where there is no risk to the security of tenure of the tenant, in other words, where the landlord has agreed that he will not oppose an application for a new tenancy, the moratorium should not apply simply to determination of what the rent will be under the new tenancy. The intention of the amendment is this, that if at any time since the commencement of the moratorium a landlord has indicated that he will consent to a new tenancy, then as from the commencement of this present Bill it will be possible for the Court to proceed to determine the rent under the new tenancy even though that involves an increase.

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

HON A T LODDO:

Mr Chairman, the Hon Attorney-General said just now that representations had been made and I would like to ask, first of all, representations have been made to whom?

HON CHIEF MINISTER:

If the Hon Member will give way I might avoid him part of his question and then he can carry on. The representations were made by the Property Owners Action Group who say: "That in view of the fact that the Report of the Select Committee appointed by the House to look into the Landlord and Tenant legislation is to be submitted to the House only a week before the abovementioned Ordinance ceases to have effect and indeed it has not been amended, it is unlikely that Government will be in a position to legislate definitely before the 31st of March and accordingly might well consider extending the moratorium for a further period, Government will no doubt appreciate that the moratorium on an increase of rents which has now lasted about two years has had the effect of subsidising one sector of the community particularly traders at the expense of another, namely, the property owners. The unexpectedly lengthy duration of the moratorium has caused considerable hardship to a number of property owners particularly those who have to maintain themselves out of their rental incomes and those who have paid substantial cost of maintaining and decorating their property. In the circumstances we would respectfully propose that if the moratorium is to be extended for a further period there should be excluded from its scope notices to terminate served by landlords upon business tenants since 10th July, 1981, if the notices in question state therein the landlord's intention not to oppose an application by the tenant for the grant of a new tenancy. You will no doubt appreciate the first notice not only gives the business tenant the security of tenure that he undoubtedly requires but also enables him to negotiate a fair market value rent with the assistance of legal advice and valuers' reports if negotiations fail to obtain the determination by the Supreme Court of the fair market value rent". We thought that that was a fair request in the circumstances where the tenant is not at risk of being evicted and that is why amendments have been proposed. I just wanted to give the reasons.

HON A T LODDO:

Mr Chairman, I thank the Hon the Chief Minister for that explanation. I actually had not asked where the application had come from. I assumed it was not going to be from the tenants, it would have to be from the landlords. What I wanted to ask, Mr Chairman, was who the application had been

made to. The last time that the Select Committee on Landlord and Tenant met I think it was November of last year. Since then they have not met. I, as a member of that Committee, have no intimation that any application had been made at all. Again, this is the second time since the Select Committee on Landlord and Tenant has been sitting, this is the second time when there has been an amendment to the law brought before the House without any consultation having taken place with the members of the Committee. I am not surprised because it is the second time that it has happened, but I must say that I am rather annoyed, Mr Chairman, that this should be the case.

HON CHIEF MINISTER:

This letter which is addressed to me, by the way, is dated the 18th and arrived in my office on the 19th in connection with this moratorium that is coming before the House now. It seems to me that it was an emergency request and not one of substance. No doubt the Committee has not been consulted either about the extension of the moratorium but it was an inevitable result of the fact that the Committee's Report is not available. There has certainly been no intention on my part to by-pass the Committee in any way. I thought that this was purely a procedural matter in connection with a temporary extension of the moratorium arising out of the fact that unfortunately the Select Committee has not yet produced their Report.

HON A T LODDO:

Mr Chairman, that might be the case, I do not doubt it and I do not doubt that it is a reasonable request but the way I have understood it all along is that the tenant has got to ask for the renewal of the tenancy anyway, he is obliged to, so how can the landlord ever be displeased at having a request coming to him for the renegotiation of the tenancy.

MR SPEAKER:

No, no, with respect. Even though the tenant may ask for a new tenancy it does not bind the landlord to give one, it is only when they are both agreed.

HON A T LODDO:

Yes, but they can still be taken to Court.

MR SPEAKER:

That is right and therefore this amendment would not apply.

HON A T LODDO:

Anyway, Mr Chairman, I think that really what I would like to do is to register my protest at this happening again.

HON CHIEF MINISTER:

My Learned Colleague Mr Perez has another point which he wishes to raise. This is not an attempt to get anything through other than through a reasonably wide consensus and I would like him to express his view on this.

HON J B PEREZ:

The point I have is that in fact if this particular amendment is passed it may endanger a certain number of tenants who have stuck to the moratorium, they have received a notice to quit in which the landlord has said: "I would not oppose an application being made for a new tenancy", and the tenant on the advice of presumably, his solicitor has said: "Well, don't bother to apply we will just stick to the moratorium". If we pass this amendment that tenant could find himself out in the street and I think therefore that this amendment should not in fact be passed. I think the danger is there. The other point I have to make is that in any event since it is quite clear that the Committee will be ready in the very near future, I doubt whether just two months will be of any help to the Property Owners Association.

HON A T LODDO:

Mr Chairman, I have to agree with my colleague on the other side.

HON CHIEF MINISTER:

Perhaps we might get on with some other business and try and have some consultation on this.

HON P J ISOLA:

I think that would be helpful, Mr Chairman, and perhaps the Clause could be left a while because certainly I take the point of the Hon Mr Perez. He is in the Select Committee but we are at a disadvantage in that I do not know what they are going to recommend.

MR SPEAKER:

We will leave this Bill, we are still in Committee, there are other Bills to be considered and then we will come back to this one.

THE COMPANIES (TAXATION AND CONCESSIONS) BILL, 1983

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

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, I move the following amendment to Clause 3; to delete paragraph (f) which is on page 43, and to substitute the following paragraph: "(f) The company where it is registered under Part 9 of the Companies Ordinance, is not of a class for the time being prescribed for the purposes of this paragraph". Mr Chairman, the Bill as it stands in Clause 3 has the effect of rendering insurance companies and any other class of company for the time being prescribed as being not eligible for qualification as exempt companies and there are reasons which I think the Hon Financial and Development Secretary may wish to speak to which if I can touch on briefly are as follows. Assurance legislation is under review and until such time as it has been reviewed we wish to be able to control the granting of exemptions to insurance companies and we do not think for technical legal reasons it would be sufficient simply to leave it to the absolute discretion expressed in Clause 5 which the Financial and Development Secretary has when he is granting exemption certificates because I think as the legal Members of the House will be aware, even words so seemingly wide as absolute discretion are words which can be subject to review by the Court and I am sure we would not want to be in the position of being subject to any such review. The Finance Centre representatives made representations on this to the effect that it would be undesirable to specifically refer to insurance companies and indeed their proposals to us were originally that this whole paragraph should go but for the reasons I have given we cannot support its going in its entirety. We are prepared to move amendments which would then on the face of the Bill simply show that there could be classes of companies which would not be eligible for exempt status and we can detail a little further, I think again the Hon Financial and Development Secretary may wish to confirm this but if there were no need to make such rules in the meantime we would not do so, we would see how the situation develops, we would not make rules unnecessarily. I have spoken to a representative of the Finance Centre Group who says that he has no difficulty with this and accordingly, Sir, I beg to move the amendment.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I merely wish to endorse the comments made by the Hon and Learned Attorney-General. I think there is also another advantage in the amendment which he did not mention and that is that of course if we do make regulations it would be quite easy to change them whereas if this stood as in the Bill we would need to have an amending Bill later on which would be a slightly clumsier arrangement.

HON ATTORNEY-GENERAL:

Sir, there is one other point I would like to say. If it became necessary to make rules excluding, for example, insurance companies, I should make it quite clear that because of another amendment which I will be proposing later on in the Bill, that would not undo exempt status already acquired by an existing insurance company which was registered. They would not in any sense be retrospective rules, once one acquired the status the fact that the Government changed its policy would not affect that status.

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

Clauses 4 and 5 were agreed to and stood part of the Bill.

Clause 6

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 6(d) be amended by inserting after the words "under Section 3" the words "under other than paragraph (f)". This is the consequential amendment I referred to earlier. The intention is that the making of a rule saying that such and such a class of company is not eligible for exempt companies status would not undo the status already acquired by a company of that class if the status were acquired before the rule.

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

Clause 7

HON ATTORNEY-GENERAL:

I beg to move, Mr Chairman, that Clause 7(1) in sub-paragraph (ii) at the top of page 45, be amended by omitting the words "from persons who have no legal or beneficial interest in the shares of the company" and substituting the words "from the public or from any section of the public".

MR SPEAKER:

I would suggest, if I may interrupt, that you move your further amendment to this clause. There is no reason why you should not do them together.

HON ATTORNEY-GENERAL:

Thank you, Mr Chairman. And further amend it by in the same subsection, that is subsection (1), by adding after the words "in any particular case so directs" the words "where he is apprehensive that a person has acquired or is about to acquire an interest, being a person who would not have been acceptable to the Financial and Development Secretary as a shareholder on the application by the company under Section 4 for registration as an exempt company". Mr Chairman, if I can speak to the amendments.

MR SPEAKER:

Yes, most certainly.

HON ATTORNEY-GENERAL:

This Clause of the Bill, Clause 7, deals with the restrictions on transfers of shareholders of exempt companies and the part of that clause which we are now concerned with deals with cases where one need not obtain consent to a transfer. One of the cases in which one need not obtain consent of the transfer as intended to be the case where an exempt company is not taking in public funds from third parties. The way the Bill is expressed at the moment the expression is as you will see in sub-paragraph 4(ii), that they may not accept deposits of money or other assets from persons who have no legal or beneficial interest in the shares of the company. On representations by the Finance Group it was brought to our attention that for technical reasons that could catch transactions which do not in any sense involve third parties, that could involve family but not third parties. What we are concerned to achieve is not to grant this derogation from the requirement for approval of a share transfer to companies who are dealing with the public, are raising money from the public, companies such as insurance companies or finance companies and so the words

that I am proposing in paragraph (ii) would therefore be from the public or any section of the public which is a phrase which is used elsewhere and has a clear meaning and would meet the point of the Finance Centre Group. So far as the second amendment is concerned, Mr Chairman, although I have said that this part of the clause deals with circumstances in which you do not need to obtain the consent of the Financial and Development Secretary before you transfer a share, that is subject to an exception and the exception is in a case where the Financial and Development Secretary thinks there is a particular need to vet, as it were, the transaction. The Finance Group did not like this, they thought it was too wide and the amendment they proposed as you will see from the text is narrower, there has to be a basis on which the Financial and Development Secretary would intervene, as it were, and exercise his power and the basis is really spelt out more fully and that is where he is concerned that the transfer may involve somebody who, if that person had originally been a shareholder, would have resulted in a situation where the Financial and Development Secretary refused the application for an exempt company.

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

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

Clause 10

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 10(1) be amended by omitting the word "everyone" which is in the first part, second line, and substituting the words "every year".

Mr Speaker put the question in the terms of the Hon the Attorney-General's amendment which was resolved in the affirmative and Clause 10, as amended, was agreed to and stood part of the Bill.

Clauses 11 to 19 were agreed to and stood part of the Bill.

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

THE PENSIONS (AMENDMENT) BILL, 1983

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

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

THE SUPPLEMENTARY APPROPRIATION (1982/83) (NO 2) BILL, 1983

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund (No 5 of 1982/83).

Item 1, Head 5 - Fire Service was agreed to.

Item 2, Head 8 - Housing

HON W T SCOTT:

Mr Chairman, in meeting the cost of meter calls, and in fact it appears on several other subheads throughout the Schedule, I presume that regard has been taken to the reduction in rental charges?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

Item 2, Head 8 - Housing, was agreed to.

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

Item 4, Head 12 - Lands and Surveys

HON P J ISOLA:

Could I ask on this one, can we be told something about this additional post?

HON A J CANEPA:

Sir, this is a post at the level of Higher Executive Officer. He spends, I would say, roughly half the time as my Personal Assistant and additionally he is the Secretary of the Land Board and assists generally within Lands and Surveys. I am sure the Hon Member will agree that that is a Department which has from time to time come under some criticism with respect to its ability to process matters connected with development. There was a requirement if not for a full post certainly for part of a post and together with the fact that he is my Personal Assistant on development and on trade matters as well in that if I have meetings with the Chamber of Commerce and minutes have to be taken it is my Personal Assistant who takes the minutes. All those factors together, following a staff inspection, led to the Government taking the view that the creation of this post was justified. As I said, it is at the level of Higher Executive Officer.

Item 4, Head 12 - Lands and Surveys, was agreed to.

Item 5, Head 13 - Law Officers, was agreed to.

Item 6, Head 14 - Medical and Public Health

HON W T SCOTT:

Mr Chairman, I think it is a welcome opportunity for me to ask the Government to explain the difference between the item that appears here under specialised treatment of patients outside Government Hospitals, the difference between that and the sponsored patients element that appears under the DLSS vote, the criteria.

HON J B PEREZ:

It is not a question of criteria. What appears under the Medical and Public Health vote is the actual medical expenses whilst the expenses appearing under the Department of Labour and Social Security reflect the air passages and the maintenance which is given when appropriate to the patient and to an escort but this only reflects the medical expenses.

Item 6, Head 14 - Medical and Public Health, was agreed to.

Item 7, Head 15 - Police, was agreed to.

Item 8, Head 19 - Public Works

HON W T SCOTT:

Mr Chairman, could I have an explanation on this because the amount seems to be rather large?

HON M K FEATHERSTONE:

I assume you are referring to Unallocated Stores. The situation is that stores are ordered at the requisite time and sometimes they do not arrive for six to nine months after ordering, occasionally even longer. When they get into the stores they are of course not used up immediately with the result that you get over a period of a number of years some years in which the unallocated stores are considerably higher than other years. This seems to go in a cycle. I believe last year we put in the estimates £20,000 and we only used up £4,000 of it, that happened to be one of the years in which many of the goods which were ordered did not arrive. This year many of the goods ordered last year in anticipation of being used for works all turned up and of course the works did not proceed as rapidly so the goods have remained in store. It is not basically an un-economic exercise insofar as those goods, most of which have a continuing value, are there for the future. If they were bought in a future year they would cost us more so to some extent we are gaining on the deal.

HON W T SCOTT:

I totally accept that point, Mr Chairman, but at the time of ordering, surely, whether it is through tender or through direct purchases there is an indication given on delivery dates and I agree that sometimes they are not met but whether the delivery date is six weeks or twenty-six weeks there is an indication at the outset.

HON M K FEATHERSTONE:

Yes, Sir, we normally get delivery dates offered to us ranging from four to six months but unfortunately we then get letters saying that "we regret etc, etc" and it can sometimes run to as long as fifteen months.

Item 8, Head 19 - Public Works, was agreed to.

Item 9, Head 21 - Recreation and Sport

HON A T LODDO:

Mr Chairman, the increase here is in the region of just over 50%. Obviously the electricity and water charges have not gone up by that much, to what do we owe the increased consumption?

HON H J ZAMMITT:

The first thing, Mr Chairman, was that we had estimated there would be less use at the Stadium on estimates prepared last year and therefore we underestimated the consumption and, secondly, there has been much more consumption particularly in water than we anticipated and water is a very expensive commodity as the Hon Member well knows.

HON A T LODDO:

Mr Chairman, the consumption of this water in showers, presumably?

HON H J ZAMMITT:

Mainly in showers.

Item 9, Head 21 - Recreation and Sport, was agreed to.

Item 10, Head 22 - Secretariat, was agreed to.

Item 11, Head 24 - (1) Tourist Office Main Office, was agreed to.

Item 12, Head 28(N) - Contribution to Funded Services

HON W T SCOTT:

Mr Chairman, might I ask on Subhead 1, the interest charges which are stated there as being underestimated, might I ask the interest charges on what?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is the Waterport Power Station.

HON W T SCOTT:

Interest charges on what, on the capital sum?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On the capital sum, yes. We borrowed £7m to pay for it and we draw down as and when a consultant signs a certificate that an amount of money has been paid, a bond is drawn out and paid and from that day interest charges begin.

HON W T SCOTT:

Because I seem to recall a figure, I think in the approved estimates it was given as something like £980,000 at the beginning of the financial year. What is the value of the interest charges?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The value or the amount?

HON W T SCOTT:

The amount.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

£180,000 increase.

HON G T RESTANO:

Mr Chairman, we were told yesterday that the Power Station is costing us now £16,000 a week. This is not reflected anywhere in the supplementary. Where would they be paid from?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Until the Power Station is taken over completely on completion of the contract, it is being paid for as part of the project, under the I & D Fund.

Schedule of Supplementary Estimates Consolidated Fund (No 5 of 1982/83) was agreed to.

Improvement and Development Fund Schedule of Supplementary Estimates (No 5 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.

MR SPEAKER:

Well, gentlemen, we have come to the stage when we are still in Committee and the only Bill that we have to complete is the Landlord and Tenant. Are we in a position to proceed?

HON CHIEF MINISTER:

I think perhaps there should be a short recess to see whether we can agree on this and then adjourn and come back and dispose of the Third Reading and the rest. With regard to the remainder of the business, I have had a word with the Hon Mr Bossano and he is agreeable to leaving his motion until the next meeting, I want to discuss the matter further with him.

MR SPEAKER:

Are we going to adjourn sine die or to a specific date?

HON CHIEF MINISTER:

No, we are going to adjourn to the 18th of April for the Budget and there may be some small business that we may have to transact at the end of the Budget. I have asked Mr Bossano not to proceed with the motion because I want to draw his attention to a number of factors and he has been kind enough to accede. So, really, we have only the two motions in the Order Paper in the name of the Leader of the Opposition.

MR SPEAKER:

Very well, we will then now recess for approximately twenty minutes.

The House recessed.

The House resumed.

MR SPEAKER:

I must apologise for interrupting coffee time for some Members because I did say it was going to be twenty minutes.

HON ATTORNEY-GENERAL:

Mr Chairman, we will withdraw the amendment on the Landlord and Tenant.

MR SPEAKER:

Since we did propose the amendment, has the Hon and Learned Attorney-General the leave of the House to withdraw his amendment?

Leave was granted and the amendment was accordingly withdrawn.

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Licensing and Fees (Amendment) Bill, 1983; the Law Revision (Miscellaneous Amendments) Bill, 1983; the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) Bill, 1983; the Companies (Taxation and Concessions) Bill, 1983; the Pensions (Amendment) Bill, 1983, and the Supplementary Appropriation (1982/83) (No 2) Bill, 1983, have been considered in Committee and agreed to. In the case of the Licensing and Fees (Amendment) Bill, 1983; the Law Revision (Miscellaneous Amendments) Bill, 1983, and the Companies (Taxation and Concessions) Bill, 1983, with amendments, and in the case of the other Bills without amendment 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 Law Revision (Miscellaneous Amendments) Bill, 1983; the Traffic (Amendment) (No 2) Bill, 1983; the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) Bill, 1983; the Companies (Taxation and Concessions) Bill, 1983; the Pensions (Amendment) Bill, 1983, and the Supplementary Appropriation (1982/83) (No 2) Bill, 1983, the question was resolved in the affirmative.

On a vote being taken on the Licensing and Fees (Amendment) Bill, 1983, the following Hon 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 A T Loddó
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

The Hon P J Isola
The Hon Major R J Peliza
The Hon J B Perez

The Bills were read a third time and passed.

The House recessed at 12.15 pm.

The House resumed at 3.20 pm.

PRIVATE MEMBERS' MOTIONS

HON P J ISOLA:

Mr Speaker, I have the honour to move the motion standing in my name: "This House considers that in the current negotiations taking place with the preferred commercial operator and the Gibraltar Government, it should be specifically stipulated that the operator may only operate within the yard and that its activities should be limited to those of a commercial ship repair yard and that accordingly

the operator should not have facilities for operating in the contracting business outside the Dockyard or act as ship agents or any of the activities presently covered in the private sector and this House further considers that the viability of the commercial repair yard should not be dependent on the elimination of businesses in the private sector in Gibraltar with the consequent loss of jobs and enterprises". I apologise, Mr Speaker, to the House for the length of the motion but I think it does contain the matters in which we feel the House should express its view. Mr Speaker, may I preface this motion by the words that of course it is the policy of this House and indeed it is the policy of my party that the Naval Dockyard should, if possible, remain open and that that is undoubtedly the first preference of everybody in this House. However, the facts of life are that negotiations are taking place in relation to the commercialisation of the Dockyard, that in actual fact redundancy notices may be given to people working in the Naval Dockyard and that at the end of the year or some such other time, we may find ourselves with a commercial operation, we may find ourselves having to accept a commercial operation in the Dockyard and I think we would be foolish if we did not address ourselves to the manner in which that commercial yard could as a commercial operation in fact disrupt the rest of the economy in order to keep itself alive and that must be a matter of great concern to the House. We have a Naval Dockyard in Gibraltar and as is well known it takes no work from outside, usually, except at prohibitive cost and expense. It operates within the Ministry of Defence area, or Ministry of Defence context, and therefore it does not interfere in any way, really, with the working of the economy outside the Dockyard and that of course is of great benefit to Gibraltar and to the economy. But if the Dockyard becomes commercial, Mr Speaker, then it would become part of the private sector and by definition it would probably become the single largest part of the private sector in Gibraltar and this could create serious problems. When the Government considered with the advice of its experts who should be selected as the preferred operator, it is quite obvious to us who attended the briefing by these experts consultants who gave their reasons why they had recommended Appledore as the preferred commercial operators, that one of the reasons that weighed most heavily in suggesting them was the fact that they projected employment initially for some 700 or 800 workers rising, hopefully, if the Dockyard or the commercial operation was a success, rising hopefully to 1,300 or 1,400 which in fact meant that they were hopeful that with a successful commercial operation they would in fact rise to a higher figure of employment than they had currently in the Naval Dockyard. That carrot, if I may call it that, was one that presumably was very attractive to the Gibraltar Government and which could be expected to be very attractive to the Dockyard labour force although it does not prove to be so, but I think that those two factors, or that factor, was a very important consideration in the minds of the consultants, the Gibraltar Government, and I am sure the British Government in selecting

Appledore as the preferred operator. I must pause here a minute, Mr Speaker, and speak with some concern of what I read in a local newspaper recently and that was to the effect that Appledore on day one would in fact be employing only 300 and I think it also said that if everything went, well they would go up to 700. I always carry my Gibraltar Chronicle with me. It says: "The firm will be employing some 300 workers on Day 1 and if everything has gone smoothly the number of employees would have been doubled or more with anything from 700 to 800 men by mid-year". That is a bit worrying because if that is correct, and I hope this is also an inaccurate report, it would make us very happy to see that it was an inaccurate report, but there the warning seems to have come that it goes up to 700 or 800 by mid-year, if everything goes smoothly. If it does not go smoothly it looks as if it is only 300 and that is something that is outside the ambit of this motion, Mr Speaker, but that is something that I hope that somebody on the Government side will be able to explain when speaking on the motion because that is worrying because the main consideration for making this company the preferred operator was its projected job employment or projected employment figures, this particular statement if correct puts in doubt the wisdom of the choice because other operators that we were given as we know had perhaps projected less number of workers and one may wonder, whether having result of that particular statement, whether they were not more realistic than the preferred operator but this is something that I am sure, in time, we shall hear about. But the thought occurs, Mr Speaker, that if there is a commitment on the part of the preferred operator, if there is a commitment or an obligation to employ 700 or 800 initially or at the beginning that that preferred operator could turn to the Gibraltar Government or could turn to the British Government or whatever and say: "Well, in order to enable me to continue employing 700 or 800 people I must be able to do things in that commercial Dockyard to be able to keep these jobs going" and, you know, things come to mind. If I have got 100 men in the Dockyard in the construction side of the Dockyard and I have got nothing for them to do, why shouldn't I do some contracting work outside the Dockyard? Similarly, in electrics, similarly in any general contracting, in any of the contracting businesses that exist in Gibraltar and the Government might be reluctant not to allow them to do this because if they do not allow them they might say: "Well, then we cannot maintain the labour force at 700 or at 800". But it is not much use, I am sure Hon Members will agree, that it is not much use allowing them to do everything they want there at the risk of losing 200 jobs outside the Dockyard and that is something that we feel in the current negotiations about which of course we are not informed, that is something that should be taken serious account of in the current negotiations. In other words, it should be made clear, in our view, to the preferred commercial operator of what he can do or what his viability must

depend and on that exclusively. And it must be made clear to that company that they will not be allowed to act or work outside the Dockyard in any of the activities that are presently covered by the private sector outside the Dockyard. And there are many small businesses even something like upholstery, a small upholstery business could be put out of business to go to these sort of extremes. It is no good to the economy to have a commercial Dockyard working which relies on its viability in taking over the rest of the private sector in Gibraltar. In other words, we do not want in Gibraltar, Mr Speaker, the Falkland Islands Trading Company, we do not want in Gibraltar a company operating the Dockyard which takes over the rest of the activity in the economy, the rest of the private sector. That would not be good for the economy and would, in fact, not do what it is intended to do, it would not substitute the Naval Dockyard, it would be taking over not only the Naval Dockyard but the rest of the private sector with only 700 jobs and affecting jobs outside the Dockyard. Mr Speaker, I think there are areas in which it is very easy to exclude the commercial yard, outside contracting within the town. In general contracting business, in electrical business, in engineering and so forth, no private work outside their Dockyard. They are there to operate a commercial yard and they must show that they can operate a commercial yard and make it viable within those parameters. They must not keep jobs going in the Dockyard by doing little jobs of work outside the Dockyard, taking work in from outside the Dockyard because don't forget, Mr Speaker, that the area that is being allocated to them in the Dockyard is very substantial and it is not only substantial but very heavily subsidised because the British Government is putting money in and it would be very easy for them, for example, to store stocks of any sort of building materials, any kind of materials in the Dockyard area, much more so than ordinary contractors or small firms. The thrust of this motion is that the preferred operator should be left in no doubt now, today, that he must make a commercial ship repair operation viable and that he must not subsidise its viability by going into areas in the private sector that are already covered by the private sector. Mr Speaker, it is easy in some areas but there are what I would call grey areas and the grey areas, of course, I think are quite obvious. For example, if they go into commercial ship repair there is a commercial ship repair yard, a small one, already in Gibraltar and obviously there is a clash. I believe someone said that as far as the existing commercial ship repair yard was concerned, I think the consultants told us that negotiations should take place in relation to compensating them or I am not sure what is being done there, but that is not a grey area, that of course is a direct clash, an additional ship repair operation being done by a company heavily subsidised with heavily subsidised land, docks and so forth and that I think is an issue that really has to be tackled on its own. But there are other areas, Mr Speaker, which one could perhaps consider grey areas and I

have been told and I am sure this is true, that the commercial operators intend to do a lot of sub-contracting. This may be so but again the problem should be safe and I hope the negotiations cover this. It is all very well at the moment for the operators to say: "Oh yes, we are going to give a lot of sub-contracting work, we are not interested in this, we are not interested in that and so forth". But when the time comes, when the crunch comes, I wonder whether that is what will in fact occur. I wonder whether the commercial yard will say: "Oh, no I have got a labour force of 700 and I have got to keep them busy and therefore I will do as much work as I can myself and the sub-contracting will be a very minor part of my operation". It may not be that way, one would hope it is not that way, but what I would hope here that we can get assurances from the Government that in assessing the commercial viability of the naval yard, the Government will ensure that the commercial operator is restricted in the areas in which it is going to be able to operate and the commercial operator will then be able to prove to the Government and to the British Government that within those parameters they can make a commercial ship repair yard. Mr Speaker, I spoke of one commercial ship repair yard as probably the biggest ship repair yard in Gibraltar but another area where I think the Government should tread warily in the negotiations with the commercial operator and try and get protection or try and get a restriction of some sort or some sort of agreement is of course on the yachts side, the yacht repairers. I think I have read in some newspaper that they look at that area as a very interesting area for the commercial yard. Again, Mr Speaker, I can think of about three small yacht repair yards in Gibraltar. They are not subsidised, they pay their rent, they have to pay the workforce and so forth. Are they going to be eliminated in one swoop, in one clean swoop? If the yacht repair market is good is there not room for everybody and if there is room for everybody should there not be some provision within the commercial operation to give some protection in that area? Another area that comes to mind, Mr Speaker, because the real ship repair area and the working of ships in the bay or in the Dockyard I agree are grey areas because the commercial ship repairer can turn round and say: "Look here, I am doing a commercial ship repair operation. If I am not going to be allowed to repair ships, what am I here for?" I understand the force of that argument and I recognise it but I think within the argument, and having regard to the little industry that we have already there, in the negotiations due regard should be had for businesses or people who operate today within the Port. And I am not talking of just ship repairers, of yacht repairers, I am also talking of people who do work in the bay to ships whether it is electrical or whatever they do to ships, I am not very knowledgeable on this, but I know that ships do come into Gibraltar and they get repaired and there are a lot of people who earn their livelihood, there are a lot of people who have employment through that. And, again,

I think in the negotiations with the preferred commercial operator, these points should be made clear and as many safeguards as possible written into the agreement so that the operation of the commercial yard is not made successful at the expense of a lot of other people and a lot of other jobs outside the yard. It is bad enough, Mr Speaker, and I recognise the difficulty, it is bad enough making a commercial ship repair in the present time, making it successful without putting constraints on it but I think there has to be a number of constraints put on. Viability has to be looked at with these constraints put on because otherwise in getting jobs for 700 we may be losing jobs for 200 or even 300 outside the Dockyard in the private sector especially if it is allowed to extend freely into contracting. Another one is shipping agencies, Mr Speaker, all the gentlemen in Irish Town. There are a few companies there in shipping agents who employ a lot of people. I do not think it would be desirable to allow people on subsidised land, with subsidised buildings to say: "Well, look, it is all right, you send your ships to Gibraltar and we will act as your agents as well", and taking over that side of business, and ship chandling, another thing. They have got storage area in that yard. They have got a lot of storage area and it is a very nice operation, I repair a ship, I supply it and I am the agent of it. Normally, one would not object with that operation, I suppose, except for the fact that in doing that you are eliminating a section of the private sector on whom a lot of jobs depend and a lot of enterprises depend and a lot of people live off. We think that these are matters on which we would like to have, Mr Speaker, assurances because we can see the problem arising that the preferred operator having possibly stuck his neck out a bit on the number of jobs that he is going to provide in the yard, is going to have to keep those jobs going at the expense of the jobs outside the yard, at the expense of businesses outside the yard. Mr Speaker, as you are aware, on this side of the House we are not in on the negotiations. We, like the Hon Mr Bossano, have been seeking information about it. I may have a little more information than the Hon Mr Bossano because I have got a report that he hasn't got, for example. But on the other hand Mr Bossano has far more information than I have because he is at ground level, he gets to know it all through other means, unofficially, so he may know a lot more about it. We have tried to find out as much as we can. We did in fact ask one of the companies that had we thought, a very attractive proposal for the yard, we did ask them to show us what they had put up to the experts and they did and I must say we found it very, very interesting and we thought that it was good. But it is not for us to decide who gets the yard or who is the preferred operator, I think that is a matter for the experts to decide and for the Government of the day. We are not. That is up to the Government. But our curiosity, let me put it that way, was sufficiently aroused and we have in fact written to Appledore and asked them if they would like to show us the proposals they have put to the experts,

to the consultants, so that we could examine them and understand them. There are no ulterior motives, we would just like to know to make a judgement and it would be very interesting to have that in the context of this motion because it would be interesting to see how Messrs Appledore, in fact, hope to run the commercial operation. They have not said that, anyway, in their proposals. But as long as they hope to do it on the basis of a commercial ship repair yard fullstop, that is fine, but it is the wrong word to use, Mr Speaker, but it does describe it rather well, if its tentacles are going to be allowed to spread then we do not think it is such a good thing and I hope we can have assurances on this. As I said, we have seen one of the operators proposals and we would like to see the Appledore proposals. We have also seen proposals, irrelevant, Mr Speaker, in fact to this motion, but I think we ought to say, with regard to the solar breeder factory, which we were interested in and we know that is being processed but, again, just talking about that for a moment, it is relevant within this context and that is that where that particular factory, or wherever he wanted to put it, if I remember rightly, is in the Dutch Magazine. The thought occurs to me, Mr Speaker, that certainly that area, for example, should not be allocated to the preferred commercial operator to enable him to carry out business outside the yard in competition with the private sector and other businesses and that area, for example, should be left out of the commercial yard, certainly whilst the Government is considering the other activity which is viable and feasible obviously is attractive in terms of jobs. But, Mr Speaker, coming back to my particular motion. The main purpose of this motion, and I am sure the Hon Members now understand what we say about it, the main purpose is, if the Naval Dockyard is in fact to close, negotiations are going on today, let us not in our enthusiasm or in our desire to keep the Naval Dockyard open, let us not allow a deal to be negotiated with the preferred operator which is based on the premise of a certain number of jobs and which can only then be made viable by poaching in a big way from the private sector or getting further in a grey area, the grey areas I have mentioned, which are really in the areas of sub-contracting presently done already in the bay, in ship repair, in yacht repair and so forth presently done in the bay to make it viable on that basis. I think the Government, as it is handing over a heavily subsidised area, subsidised by the British Government, in buildings, docks and so forth and in the programme required to put it in good working order, that there should be safeguards in all those negotiations in giving these people this, there should be safeguards for the private sector as it is today. I hope that the Government can agree with the terms of the motion and give me the answers to the questions that I have posed and the assurances that we seek. I commend the motion to the House.

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

HON J BOSSANO:

Mr Speaker, I would not normally speak at this point in time after the mover of the motion, I would wait to hear what the Government has to say, but I have in fact to be away from the House at 4 o'clock to see what the people who really matter, that is, the people who work in the Dockyard, actually think of Appledore and all the other alternatives, and I would not want to miss the opportunity of putting on record in the House how I react to the motion, how my Party reacts to this motion. I will say that I do not support the motion and I am not dismissing the opposition to the closing of the Naval Dockyard in my first few words by saying that it is the first preference of all of us and then spending a lot of time, having said that it is the first preference, talking as if that first preference had already disappeared. As far as I am concerned the first preference has not disappeared and therefore we are not in the situation today of looking at alternatives. And if that situation ever arises, Mr Speaker, I have no doubt in my mind that the determining factor of the terms of conditions upon which anybody substituting for the Naval Dockyard will operate in the Dockyard or out of the Dockyard, will be determined by the Dockyard workforce and by the Trade Union Movement. So irrespective of the motions that are put in this House of Assembly the reality of the situation is that Appledore or anybody else cannot operate unless they come to terms with the workforce that is going to work for them as to what they should be paid, and what conditions they should be employed on and what they should be employed to do, and with the Trade Union Movement. And I have no doubt at all in my mind, Mr Speaker, that if tomorrow the Dockyard workforce and the Trade Union Movement said to Appledore: "Right, we are now accepting the closure of the Dockyard and we are now prepared to sit down with you and negotiate", and they are the only negotiators that matter, I do not know what negotiations are taking place now, but I know the ones that matter are the ones that are not taking place now and that may never take place, then, Mr Speaker, I have no doubt at all that the situation would be that the Government or this House of Assembly would be told by the British Government: "If Appledore says they have to be allowed to do A, B and C otherwise they are out and if they are out there is no £40m", then A, B and C would be accepted like the change in the frontier closing hours was accepted. But let us be realistic. Let us know who has got the bargaining power and who has got the strength in this situation irrespective of what we say here and irrespective of how many motions we put here, if nobody is prepared to work for Appledore it does not make any difference what is agreed or negotiated, Appledore will not open its doors. If the Trade Union Movement black every

single thing that has Appledore's name on it, Appledore will never get past the Waterport to the Airport, Mr Speaker. Therefore in terms of saying that this motion is protecting the interests of the private sector, this motion cannot do that because we are not in a position to offer protection to anybody. The situation today, and possibly after 4 o'clock today, is that the Dockyard workforce is determined to fight the Dockyard closure and is not interested in commercialisation or interested in Appledore, or interested in bargaining with Appledore, and if that situation continues to be the case after 4 o'clock today, Mr Speaker, then irrespective of whether the motion is carried or defeated, the Dockyard workforce will start taking industrial action in their fight to keep the Dockyard open and whatever negotiations are taking place with Appledore and ODA and anybody else is totally irrelevant to the situation. The real negotiations will take place when and if the workers in the Dockyard, and I think they are the people who matter because if we are talking about jobs they are the ones who are under threat of redundancy. If we are talking about offers of employment they are the ones who are going to be offered employment and they are the ones who are going to decide what is acceptable to them, nobody else is going to decide for them. The rest of the population are not going to decide, the executive of the unions are not going to decide and the fifteen Members of this House are not going to decide. It is the people who are going to be sacked who are going to decide whether they fight the sack and whether they accept the alternatives and on what conditions they accept the alternatives. That is the reality of the situation, Mr Speaker. Therefore, as far as I am concerned, as far as the GSLP is concerned, there are two fundamental issues. One is that we give full unconditional political backing to the Dockyard workforce and to the Trade Union Movement in its fight against the closure. Secondly, that if we are being told by Her Majesty's Government that their defence requirements in Gibraltar in 1983 are no longer what they have been up to now, then we are not prepared in looking at an alternative to limit ourselves to the Dockyard. We are not prepared and we do not think it is possible to seriously and honestly and scientifically consider the question of Gibraltar's long term economic viability by limiting ourselves to the bits and pieces of MOD land that is released as and when the MOD want to release it. Our position is absolutely clear-cut, we have attempted to express it as a party and I have attempted to reflect it in this House on more than one occasion and therefore, for me, that position and this motion are mutually incompatible, Mr Speaker, and I will not support it.

HON A J CANEPA:

Mr Speaker, I wish the view of the Government could be as simple and as straightforward as the view of the GSLP as expressed by the Hon Mr Bossano because then I think it would only be necessary instead of a number of Members on

this side of the House having to participate in the debate, it would only be necessary for one to say a few words for two or three minutes in an equally forthright and clear-cut fashion and sit down and that would have been the end of the matter. But for Government, of course, matters can never be as simple as that, they have to be much more complex. In general terms, Mr Speaker, we on the Government side can understand the concern expressed in the terms of the motion and, indeed, agree with much if not most of what the Hon the Leader of the Opposition has said. But I think that it is necessary also to give the Government some credit for having some element of intelligence, we may not be the most intelligent people in Gibraltar but we ought to be given some credit for having some intelligence, and also for having, I think, some concern as well to safeguard the interests of Gibraltar as a whole. If we nevertheless have to go through the exercise that we are involved now in studying as part of the project study team whether commercialisation is viable or not, we too of course would wish that it were not necessary to be involved in such a study and that the Dockyard could happily continue as it has done for decades. I think that the Leader of the Opposition though has failed in this respect. I think he has missed what is in our mind the most important point and that is that it is not the preferred operator, Appledore or what have you, who will decide on the type of activity which will be undertaken in a possibly commercialised Dockyard. It will in fact be the proposed ship repairing company which will employ the preferred operator as its manager. And this proposed ship repair company will be controlled by the Government or perhaps I should say would be controlled by the Government through the Memorandum and through the Articles of Association and the operator will carry out its activities in line with the Management Agreement. Now, Sir, the House will have an opportunity to discuss such a draft Memorandum and Articles of Association and in the Management Agreement if we do reach that later stage at an appropriate time. And perhaps before I continue further I should also point out that the term "negotiations" used in the first line of the motion, the reference to the current negotiations is not strictly accurate. The current study involves discussions, it does not involve any negotiations. Mr Isola made reference to the comments of Mr Nash as published in the Chronicle last week. I hope he took note as to how quickly the Government reacted to that. I can inform the House that the Financial and Development Secretary at the first meeting shortly thereafter, the first meeting of what I think is termed The Dockyard Consultative Committee, communicated to those present the concern of Ministers in respect of the figure of 300 persons to be employed at the beginning of the operation and I think that the Financial and Development Secretary later on in his intervention will deal with that aspect of the matter. I hope that the Hon Members, because this is rather more closely related to the motion before the House, also noted the Government views

with respect to the shifts that have been announced by Mr Nash and his unfortunate comment that it would enable the workers employed by them to take on part-time employment. My immediate reaction to that was, well, this either means that they are not going to be sufficiently well paid and therefore they will have to take on additional employment, or else he is trying to encourage them and sugar the pill of commercialisation by pointing out that they will have time to take on part-time employment, something which in my view would be detrimental to the general interests of Gibraltar. We do not want people to take on second jobs. If the Dockyard closes on the 31st of December, 1983, my guess is that there are going to be more people unemployed than what there are now and we have got to look for jobs for the unemployed, not to create second jobs for people who ought to be already sufficiently well off. This is the policy that the Government is adopting in other fields. For instance, our attitude to the question of two taxi drivers for one taxi. Our attitude is that provided it will create an additional full-time job it is something that we can look at but if it means that somebody who is working as a fireman or as a prison warder and already earning £11,000 or £12,000 is going to earn another £5,000 in a second part-time job, that is unacceptable as a fundamental policy to the Government and it is not in keeping with our view of social justice, a matter about which we feel very, very strongly. As I say, these remarks were unfortunate, I do not think that they will endear Mr Nash or Appledore to anybody and if the exercise that he was intending to carry out when he was here was a PR exercise I think that they will have to be much more careful in future not only with respect to the need not to upset those who are sceptical about the whole matter but more so those who are actively antagonistic to it because they see that their jobs and their future wellbeing and security is at stake. The terms of the motion, Mr Speaker, however, are too wide. For example, what is meant by the motion by a contracting business? Would this exclude voyage repairs which is in fact the normal activity for a ship repair company? And in this latter sense the activity of a ship repair company cannot be strictly confined within the yard physically. I think the House should consider the pattern of activity which any normal ship repair company would need to undertake to carry out its business. I am sure the House will not want to restrict the company unduly bearing in mind that a potential commercial operator can pass on by way of sub-contracting ancillary services provided that the service is adequate and that the price is right and provided that the activity is available in Gibraltar. There are examples of some activities which are not currently available in Gibraltar, for instance, those in connection with a gas plant and in connection with the running of a chain test house. These activities may have to be provided for by the operator itself in the absence of an existing undertaking within our territory. Certainly there are no proposals to rely on our neighbour across the way in this matter. It is

certainly not the intention of the Government, Mr Speaker, I can assure the House, to have a commercial ship repair yard which will eliminate existing activities but rather to build up private sector trade through sub-contracting and through the franchise of those activities which are allied to ship repair. I think I should end on this note, Mr Speaker, and that is to remind the House that in voting recently in support of a motion on the matter, the Government has committed itself not to take any decision on any future commercialisation of the Dockyard without the matter being debated in the House and all the points, all the matters that have been raised by the Hon the Leader of the Opposition will be the subject of careful study and they can all be looked at again if and when we do reach the stage that we bring to the House the proposals that will emerge from the project study currently being undertaken, and if we do reach a stage when a Memorandum and Articles of Association and the Management Agreement, that I referred to earlier, also have to be considered. It is a commitment that the Government has undertaken, we will honour this commitment and the views, generally, of the House will be very closely borne in mind by the Government not only now but on such future occasions. Thank you, Mr Speaker.

HON MAJOR R J PELIZA:

Mr Speaker, I think I should address myself to the last speaker. He seems to some extent to have objected to the idea of the motion being brought to the House and went as far as saying that we should accept that the Government was more intelligent than we were giving credit to. Mr Speaker, I think it is the role of the Opposition to try and test the Government in every possible way and so ensure that they do not overlook certain things which might be in the interests of the people as a whole. And we know from past experience, and this Government is not the exception to the rule, that on many instances they have overlooked things and on many instances they have made blunders and some of them very big ones indeed. Therefore I would have thought that there is nothing wrong in introducing this motion which I think is very timely and which I think has brought to the attention, matters that no one as far as I can recall has given any consideration to in this House until now. We have always thought of the effect of the Dockyard, of what is going to happen to the people working in the Dockyard itself and to the effect that this will have generally in the economy but not to the extent that has been pointed out to my friend today here as to how it is going to affect established firms in Gibraltar of long standing and who to some extent, if not to a large extent, have given to Gibraltar the identity which all of us want to preserve and which could be undermined if it came very much under the control of one monolithic concern which in the end could literally rule the Government itself. Therefore I think it is in our interest that whatever company takes over the Dockyard does not in a way become a Trojan Horse which it can easily become. I know that the Chief Minister is smiling, he always does, I think, when I am scoring.

MR SPEAKER:

Let us not make personal references and let us relate ourselves to the motion. You are addressing the Chair and that is the way you should do it.

HON MAJOR R J PELIZA:

I am telling you, Mr Speaker, that the Chief Minister is smiling, he is smiling now.

MR SPEAKER:

Order.

HON MAJOR R J PELIZA:

I know that perhaps I am talking some sense because he is beginning to listen, Mr Speaker, and that is the clue to me that what I am saying is of some relevance and I think that the Government should take notice of what is being said. We are all moving in the dark in Gibraltar. Even a newspaper which to a large extent supports the Government in the last editorial said that we should have more open Government and because of this I think my friend is more than justified in bringing this motion to the House. Now we know that negotiations are not going on. The Minister for Economic Development said that only discussions are going on. Everyone, to my knowledge, thought that it was negotiations that were going on otherwise my Hon Friend would not have put it down in the motion. Why is it that we do not know, because we are not let into the secrets of the Government which for one reason or another can never disclose the information. I think that more that the fears of what the effects of the information could have on the other side of the border is the knowledge that information and knowledge is power and that power they want to retain to themselves and they do not want the other side of the House and they do not want the public in Gibraltar, generally, to know what is going on, because if they do then their position, of course, can be criticised much more than if this is all kept within four walls. I think my Hon Friend has made a very good case for the Government to give an undertaking to that respect in this House. I have a feeling that the Government is going to vote against the motion otherwise I do not think that the Minister for Economic Development would have spoken in the terms that he did. But I have a feeling that they are going to vote against the motion or at least they are going to abstain. He has not disclosed his position yet, perhaps we shall hear the Chief Minister later and maybe he will give us a clue as to the way they are going to go. Just speaking on what the Minister for Economic Development said about a ship repair yard, a ship repair company, if it does come into being being controlled by the Government. That in

itself is no assurance, Mr Speaker, because if a ship repair company is going to be controlled by the Government and if the Government is responsible eventually for the ship repair yard and things are not going as well as they should, then the Government itself to save its skin will start trying to do what they can to somehow make the company successful perhaps at the expense of other businesses here to keep people employed but which at the end of the day is not the purpose for which the company was first set up. What is the company going to be set up for? It is to replace what is called the economic base of Gibraltar or a large chunk of the economy base of Gibraltar. A business that brings money from outside Gibraltar, a form of export because it is only in that way that we can bring sufficient money into Gibraltar to keep the standards that we have today. It is on that that the company must concentrate and it is on those lines that it must operate and it is on that that the Government must give an undertaking and therefore stop spreading inwards into the economy itself which will defeat the object of the company. Even if at the end of the day the company can show good results if the good results of the company is at the expense of business already going on in Gibraltar, it is not achieving its aim which is to bring money from outside Gibraltar. That is the purpose of the company. And that I am afraid is not what the Minister for Economic Development has addressed himself to and this is what I would like to hear the Chief Minister speak about. How is the company going to bring the money into Gibraltar to stop the possibility of spreading into our own economy as the Leader of the Opposition has just said? I thought the Minister for Economic Development was very, very weak on that, in fact, almost as if he had no knowledge of what was going to happen with the company. This is the point that the Minister for Economic Development should have addressed himself to and then I would have considered him being competent at his job. But the way he addressed himself to this House, quite honestly, he was attacking the Leader of the Opposition on what I thought the very sensible points that he made than really trying to be constructive and show that in practical terms that would not happen because the company would be directing itself to new business for Gibraltar not to existing business in Gibraltar, otherwise it would be achieving nothing at all. Mr Speaker, he even dropped the hint that they might do so. He said: "for as long as the service is adequate and the price is right", which means that if there are businesses in Gibraltar which could be taken over by this company, in one form or another, because the service they are giving is not adequate or the price is not right, then it would seem that they should be entitled to creep into that kind of business. Mr Speaker, if that is not giving a hint, I do not know what it is but, believe me, if the company is going to be subsidised, if the company is going to get going by other means and if therefore it can creep in, Mr Speaker, I think that the motion brought up by my Hon Friend here is very, very relevant and I cannot

understand why the Government has felt itself to go against it, at least so far that is the impression that I have. Mr Speaker, I have really made the point and this point is, above everything that I have said, that if the company is going to establish itself here it is intended to replace the Dockyard and nothing else, the Dockyard, the money that the Dockyard was bringing in and within that context, I think, and within the context of bringing money from outside Gibraltar, the more it develops the more it will be welcomed by this side of the House. That is the message that we want to convey with this motion and the other one, Mr Speaker, is that it should not be allowed to in any way destroy the small but I think loyal businesses of Gibraltar for many years back who have given employment to Gibraltarians for a long time, who cannot by themselves take over Government or destroy what you might call the identity of the Gibraltarians which I am afraid that a big company can do so by, you might say, the tail wagging the dog which could happen, Mr Speaker, if a company becomes so strong that literally the Government depends on its income to be able to keep the place going. And, finally, Mr Speaker, I think that having said all that, I do not believe that any ship repair yard can replace the Dockyard, not so much because of its income, whatever the income may be, but because it will always be subject to interference from outside and we have experience, in fact, if we listen to the statement made by the Chief Minister earlier in this meeting where now I think he completely distrusts the Spanish Government, once upon a time he used to and now he gives me the impression that he does distrust the Spanish Government completely, if that distrust is carried to its logical conclusion

HON CHIEF MINISTER:

Is the Hon Member saying that once upon a time I trusted the Spanish Government?

MR SPEAKER:

Well, I think that is the insinuation.

HON CHIEF MINISTER:

Well, if he says that he is talking absolute and utter rubbish.

HON MAJOR R J PERLIZI:

The Chief Minister will have an opportunity of expanding on his statement, Mr Speaker, when we speak on the other motion. I do not believe that any longer the Chief Minister has the confidence that the Spanish Government will cooperate with Gibraltar anymore, at least in the foreseeable future, as he thought in the form of opening the frontier. If that is the

case and we carry that to its logical conclusion, do we believe that in their intent in destroying our economy that they are going to allow and in fact favour us with any ship repair yards that we have here or will they do everything in their power to undermine that business? I think that they will do everything in their power to undermine it by every possible way in the form of competition or whatever and therefore, Mr Speaker, I think that in that light I would like to hear the Chief Minister speak now as to whether he feels that the Government can make it go purely and simply on our side work, bringing money from outside and not encroaching on our existing businesses in Gibraltar.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have been under the impression over the past four months that I have been consulting and probing and discussing on the possibility of a commercial ship repair facility. I certainly have not been negotiating. Proposals were received, a preferred operator was recommended and the recommendation was accepted by the British and Gibraltar Governments and then a group was put together to go and look into the entrails of this particular chicken to see what we could find there and we are digging away at the moment and it has been said by Ministers and it has been said by me that there is no commitment by the Gibraltar Government to commercialisation. And there is no commitment by HMG to commercialisation unless they are satisfied that it would be a viable operation and the whole object of the consultations which are going on at the moment is to ascertain whether that project would be viable and we are far from satisfied at the moment that it would be and we have got to satisfy ourselves that if it is viable that facility, together with other prerequisites which the Gibraltar Government would require, will plug the gap in the Gibraltar economy which will be left by the closure of the Naval Dockyard if our colleague, I will use the House collectively because I am an official not a Minister, if our colleague the Hon Mr Bossano would have us believe it is not going to close and all is going to continue. I would like to take the opportunity to explain to the House how our minds are working in terms of the consultation and in doing this I would say that I am speaking as Financial and Development Secretary, I am not speaking as a Member of the Government and I am speaking as referendum Ministers here because they have not been consulted yet. The thinking amongst the officials who will advise the Government is that the Dockyard facilities would be run by a commercial ship repair company of which in the first instance at least the Government would be the 100% shareholder because it would receive the land and assets passed over to Gibraltar by HMG. And that ship repair company would be a private company under the Companies Act and as all companies under the Companies Act would have a Memorandum of Association and Articles of Association and it is for that reason that we asked ODA to appoint for us a

lawyer specialising in maritime affairs so that we could have the best possible advice on drawing up the Memorandum and Articles of Association. In such a Memorandum it is normal to set out what is the main purpose of the company and the main purpose of the company will be ship repair. But in order to carry out that business it must be able to do other things, it must be able to employ people, it must be able to borrow money, lend money, take on work, enter into contracts and various other things. There is a pattern running over hundreds of years in the United Kingdom of the ancillary requirements for the carrying on of a ship repair company and it is those ancillary requirements that we are looking at in our discussions and certainly one would not expect a ship repair company to go into some of the activities which were mentioned by the Hon and Learned Leader of the Opposition. One would not expect them, for example, nor would it be in the Memorandum of Association that they should go into the contracting business of building buildings or whatever else we need to build in Gibraltar. But there are some areas which may be necessary for them to enter into if they cannot find the facility in Gibraltar. At the moment those facilities may be there but whether they will be there in the future one does not know and so there has got to be a provision that they will have an ability to move into a field if the facility is not otherwise available. The interface, if I can call it that, between the ship repair company and the managing agents which is at the moment suggested to be the preferred operator, would be based on an agreement, a management agreement, and the powers of the managing agents would be set out in that agreement and would be closely controlled by a board of directors and their actual activities would be controlled by a controlling officer appointed by the board and reporting to the board to ensure that the board's directives are observed and that the managing agents carry out their duties within the Management Agreement. There is a lot of work to be done on this before we finally come to the House in debate, as the Chief Minister has promised, with proposals for a ship repair facility and I think that it would be wrong of the House to tie our hands whilst I think it is right of the House to give an indication of its thinking and why its thinking goes in a certain direction. For that reason I welcome this debate because it gives me an insight into the thinking of the House on certain aspects. There are one or two points that came up in the discussion which I would like to touch on fairly lightly because I think that they are important. First of all, it was said that employment was the main reason for choosing Appledore. I do not think that it was the main reason, there were other important criteria, the capital investment programme, the localisation of management, their training proposals, their marketing appraisal, their proposed use of the land and their proposals for a naval work programme. But I agree that APA in their proposals put in a starting figure of 700 and I was no less shaken than were other Members of this House and Ministers when I was told

that the starting figure would be 300 and as indicated by the Minister for Economic Development and Trade, at my last meeting with them I did not ask for an explanation I gave a direction that I wanted to know why the figure had dropped and what steps were going to be taken to ensure that the original figure of 700 would be kept to. The APA proposals projecting employment from 700 to 1,400 did not assume the taking in of work other than activities in ship repair and associated areas. For example, it did assume taking in some major ship repair activities and I know from the discussions which we have had that they are looking at major ship repair activities and the bringing in as sub-contractors of companies who are already working in this field in Gibraltar. I think that what we have got to do, I know that the feeling of the House and the thrust of the motion at the last meeting here was that we should go back to the United Kingdom and seek agreement for the closure not to take place and for the Naval Dockyard to continue, that I accept. Meanwhile we have got to go ahead working on contingency planning against the closure of the Dockyard. Not to do so would be wrong in my view, a view that possibly is not shared by the Hon Mr Bossano but I think it would be wrong for the Government not to make contingency planning. I think that in our contingency planning and in our thinking as a House of Assembly, generally, and Gibraltar as a generality, in our thinking about the future and the economy of the future, we must not look to an ossification of the present economic structure. We must look to a development of the economy and the chances for the development of the economy that a commercial ship repair facility could bring to Gibraltar. Not a development that would mean knocking out small businesses but one of developing small businesses, of developing new small businesses, of a diversification outwards. We have got to be positive in our thinking and not negative and I hope that we can do this generally as a House, not as Government and as Opposition, but as people who are really working for the economic benefit and development of Gibraltar. Thank you, Mr Speaker.

HON A J HAYNES:

With all due respect to the Financial and Development Secretary, you cannot get four elephants into a Mini and to make my meaning clear, Mr Speaker, however much you try and legislate in your Articles of Association to govern the behaviour and approach of a company, if they cannot meet with the requirements then there is nothing you can do about it. You can say they are going to put two elephants in the front and two elephants in the back but they will not fit, Mr Speaker, and it is on this basis that we have fears as regards the present preferred operator. Our fears, as expressed by the Gallant Major Peliza and the Leader of the Opposition, regard the prospect of poaching in the private sector by the preferred operator as the only way in which he will be able to comply and fulfil his manning level requirements. Though I appreciate the Financial and Development

Secretary's hopes for a boom in the economy, I do not think that there are a great deal of prospects for this and as such, Sir, I do not believe that the Articles of Association will be sufficient to ensure that the preferred operator does not have to lay off men or interfere with the private sector. I am afraid that the Articles of Association cannot prevent them from so doing. And it is this qualm we have as to the amount of people whom we can reasonably expect to be employed in a commercial venture that has led to the putting down of this motion. And, again, I do share the Government's view on this that we cannot take the views proposed by our absent colleague, Mr Bossano, to the effect that he is not going to consider anything other than a continuation of the Naval Base, we feel that we must look ahead to every eventuality and plan as best we can for any contingency. And if our information to the effect that the preferred operator have inflated their estimates as to manning level requirements either through optimism or for any other reason, then the cost to Gibraltar of their miscalculations is either redundancy at the commercial yard or a take-over of the private sector. And it is this take-over of the private sector that has been outlined by the Gallant Major which will resemble to some extent the Falkland Island Company of Gibraltar. Government, in order to prevent redundancies at the yard will have to accede to a request by the commercial operator to keep their men employed by doing work which is presently done by local enterprises and the result of this, Mr Speaker, will be the destruction of the private sector which in many cases has been in Gibraltar, has been participating in Gibraltar's political and social struggle for over a century. It would be just too easy for the commercial operator which has the capital backing of the United Kingdom which has got all the underwriting facilities, which has got all the money it needs to undercut any one company in the private sector today. It would be too easy for them to rub out those hazy lines in commercial ship repair yards which includes the shipchandlers, the yacht repairers, the ship agencies, and it goes into the construction side which is furniture repair, furniture construction, upholstery, joinery. Mr Speaker, we really could have a Falklands Island Company for Gibraltar. And if there is any foundation in these fears perhaps we should be looking again, we should reconsider which of the applicants should be the preferred operator. We have another applicant, Mr Speaker, whose manning levels requirements are not so high, perhaps those manning level requirements are realistic. That same operator has a long history of association with Gibraltar and never have they poached into other spheres in the private sector of Gibraltar. It would not be difficult therefore, Mr Speaker, to either expect or to negotiate to ensure that that operator would not undercut other enterprises. As I said, Mr Speaker, they have a history of not interfering with other ventures in the private sector. Another interesting feature in that applicant's proposal, Mr Speaker, are that they are prepared to put their money

into the commercial venture and that I think, certainly to my colleagues on this side of the House, has meant a great deal and has impressed us accordingly. That operator, Mr Speaker, is of course the Blands consortium. Another interesting feature in their application, Mr Speaker, which is one which personally convinces me, is that in a multi-purpose use for the Dockyard we are not dependent solely to the shipping recession. Multi-purpose gives the commercial venture the flexibility which in my submission it would require in order to protect its economic position and by protecting its economic position it could, in my submission, be expected to retain its manning level requirements. But as the Leader of the Opposition has said, it is not for us to choose the operator but let the Government ensure that our fears as regards an unrealistic estimation of the manning level requirements are cleared and that they are cleared now before, in a few years time, they become a nightmare for us all. I commend the motion, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I do not think that anything that my colleague, Mr Canepa, said in any way indicated that we resented the motion or that we criticised the motion or the idea of introducing the motion as Major Peliza appeared to think. In fact, I think the House should be grateful to the Financial and Development Secretary for the information and the appreciation that he has given of the work that is being done by officials in respect of the project study. I think he is doing an excellent work and I know, as so many people know, that despite many difficulties and personal misfortunes he has soldiered through in very difficult times without giving up one meeting in order to see that this matter is properly studied and I think it is a great privilege that we have a man who has, as he stated here, the interests not of the Government but of the House, concerned in making sure that the right decisions are taken. Having said that you will have noted that he said he was speaking ad referendum to Ministers because it should be understood that though some of us see some minutes of what is going on we have not yet come into the picture in respect of the study which is taking place at official level. For that reason it is ridiculous and unnecessary to say that we are keeping things secret. We can hardly keep things secret which we do not know. Of course, if any Member of the Government wanted to see the minutes of what is happening they would be shown to him but my experience of Government tells me that for as long as competent officials are looking at a matter on behalf of the Government ad referendum and one has confidence in those officials, I think the best thing that a Minister can do is to keep aside, give guidance when required, when asked for, and wait for the final report on which you are going to make a judgement. That any Government, any Government, was going to ruin the rest of

the private sector just to save their faces, anybody who thinks that that is what is done in Government should have his brains tested. The other thing why we think that whilst it is interesting, as the Financial and Development Secretary said, that there should be an opportunity to test the concern of Members of the House in these matters is welcomed, it does not necessarily follow that any particular view expressed in a motion that would bind the House has to be accepted simply because it is well intentioned. It is in this context that we find ourselves, of course, not in a position to agree to tie our hands according to the terms of the motion because we do not know. It is a pity as so many times happens, that a recent case put forward by the Leader of the Opposition has been so thoroughly spoilt by someone who wanted to support it, Major Peliza, to such an extent that he has misrepresented what Mr Canepa said in his contribution because he has said exactly the opposite. I happen to have here Mr Canepa's speaking notes on what he said and what Major Peliza said was that Mr Canepa said that naturally the Dockyard would want to go into areas where now there are people carrying on businesses. He said exactly the opposite. He said it will not want to restrict the company unduly bearing in mind that the potential commercial operator can pass on by sub-contracts ancillary activities provided the service is adequate and the price is right and that the activity is available in Gibraltar. That is what he said. He did not say the opposite as produced in the performance of Major Peliza. That meant that the Dockyard could give work outside rather than go outside to take work from it. So let us put things in their proper place and let us be sure that if we are to be taken seriously we have to be responsible about what we say. The Financial and Development Secretary has said that he is still far from satisfied that the project is viable and in fact he repeated what we have said so often that we are not committed and so on. But in addition to that and in addition to show that once there has been this useful airing of view the motion itself cannot be accepted and perhaps the Hon Mover might think whether it would serve more the purpose to reconsider whether he wants to go on with it or not rather than have it defeated. There are three reasons why that should be considered. One is because we have a motion before this House passed unanimously not to agree with commercialisation before the matter is fully discussed here. There is another part of the motion in the Naval Base motion we passed at the last meeting where we were asking the British Government to reconsider the question of the closing of the Dockyard and therefore we should not take for granted and in that respect to some extent for completely different reasons I share part of the view expressed by Mr Bossano that it is not a fait accompli. If we accept it as a fait accompli then of course they will say: "What is the use of your saying this one day and then accepting that everything is going to go so badly that you have to take a motion to make sure that it is done this way".

I think that that is the reason why this is, I think, premature. And the third is, of course, the fact that as has been said in quite clear terms the mechanics for the running of this will make it necessary to have a Memorandum and Articles for the company that would appoint the managing agents for the operators who would be bound by a contract and all the safeguards, the reasonable safeguards, that a ship repair yard requires if it is going to carry out its functions properly without in any way impinging on local businesses, local trade and so on. It would be the acme of folly and absolute nonsense if we were to say that the Dockyard Study Group could consider the Dockyard to be viable because in the process it would do away with a number of firms that are now carrying on activities that they would be deprived. This would be stealing from Peter to pay Paul, it would be ridiculous. This would not be considered by any sensible person, let alone by people who are traumatised to such an extent about the possible result of the closure of the Dockyard that are taking every possible step to make sure that if it has to go ahead it is going to be, like the Financial Secretary said, something which is not just a substitute for something which was gradually losing its impetus and a wasting Dockyard where no assets have been put in for years and if it had not been for this it would have been for some other reason when in two or three or four years time in the present state in which the Dockyard is it would have been worth nothing at all and it would have died a natural death, but that we should look outwards, if this is going to be feasible, to a Dockyard that would activate the economy and would be able to provide new businesses, new activities. Whether it is possible or not we do not know but that is the way we should look at it and not as a substitute not only for the old or for the present Dockyard but for businesses which are running now and it would be ridiculous for any Government to say that they are going to have a private company to substitute the private sector when, in fact, what we want to do is to encourage the private sector. I will not deal, because I do not think it is within the ambit of the motion, as to whether one operator or another should have been preferred. I think that that is not part of the motion and therefore it is unnecessary for me to deal with that. That decision was taken, it may be that it is not to other people's acceptance, I do not think the House is debating that point and therefore I do not think that that is necessary for me to deal with. I feel, Mr Speaker, that I have dealt with the points that have been raised in a sensible manner. I do not have to say that this is the most important matter that the Government has to deal with in the immediate future. When I say that the Government has to deal with, it has to cope with problems raised by other people but in this case, in the study that is being made, the contribution is being made by our own officials and we are trying to shape our future by making sure that the work that is being done, that what is done is right. In respect of the other part of the difficulties that we have,

it is something over which we have no control and that is what our neighbours across the way do. On this we have an element of control and the control is to make sure that if there is going to be a substitute to the Dockyard it is going to be something that is going to be good for Gibraltar and not bad for Gibraltar. In that we have a very, very high responsibility to make sure that the best is done. For the moment I have full confidence in the Gibraltar team that is doing very hard work under the leadership of the Financial and Development Secretary and we think that the passing of the motion now would be untimely and as has been said unduly tie the hands of those who are negotiating perhaps even to get better terms or possibly even harden the attitude of those with whom they will have eventually to negotiate.

MR SPEAKER:

Are there any other contributors to the debate?

HON G T RESTANO:

I would just like for the record, Mr Speaker, to declare an interest and unless the motion is withdrawn I will be abstaining for that reason.

HON W T SCOTT:

Mr Speaker, I feel that since I do not derive any direct pecuniary interest from a small yard slipway that carries a name like mine, I feel free to vote in whatever manner I choose.

MR SPEAKER:

Well, that is a matter of conscience. If there are no other contributors I will call on the Mover to reply.

HON P J ISOLA:

Mr Speaker, let me first of all deal very quickly with the Hon Mr Bossano, and his reasons for opposing the motion that he does not accept the Naval closure and that a commercial operation depends entirely on the agreement of the labour force. This is true and he is right but I suspect that if for any reason the Naval closure goes ahead and the Dockyard closes, I suspect that people who depend on their livelihood from work would not necessarily take the view when the crunch came that it was worth having no job at all. My judgement is different to his although obviously he is far better qualified to speak on these matters than we are, being so close to the labour force. I think that it is a mistake on his part to just say that and say that any discussion on this weakens the struggle to keep the Naval

Dockyard open. I disagree with him on that for the reason that the viability is being examined presently, some day the specialists or the preferred operators with the team on the Gibraltar Government side and on the British Government side will come up with conclusions as to the viability or otherwise of the commercial yard and what this motion seeks to do is to, and that is why it is brought now and not afterwards when the discussions or whatever one likes to call them have taken place, then it is too late. What this motion seeks to do is to get the House to agree, get the Government to agree that a study of viability of the commercial yard does have certain constraints and those are the constraints that we put in the motion. That is why it comes now, it is not brought because we have given up the idea of the Naval Dockyard not closing, it is brought so that the Government, or whoever, when the discussions or whatever is going on have concluded, that it is said. "Now, look here, a commercial yard could be viable provided it was allowed to spread all over Gibraltar but we are aware that this is not the aim of the exercise and that we can only consider viability within the terms of a commercial operation". I must say, Mr Speaker, that we have not really had any assurances in this respect and this is what worries me and this is why I do not think I can accept the suggestion that I should withdraw the motion because I think if I did it would appear that we agree that these considerations should not be very fully in the mind in deciding the viability of the yard.

HON CHIEF MINISTER:

If the Hon Member will give way. That was precisely the purpose of the intervention of both the Financial and Development Secretary and myself. Certainly of my own, and I can speak for myself, and it was clear from his intervention, as well as the intervention of the Minister for Economic Development, that these are all matters that have got to be looked at. Whether we took as bad a view or as grey a view as the Mover takes or not is another matter but certainly we accept that these are very important criteria. Whether they are in the terms of the motion or not is another matter. I think I said quite clearly that all the concern expressed by the Leader of the Opposition was fully shared.

HON P J ISOLA:

Yes, but when I was speaking I was asking for a number of assurances.

HON CHIEF MINISTER:

But that does not mean that we are going to vote for anything that is brought in part of which I may disagree with as if this is a completely different concept. In the base, we are talking about criteria, certainly, but we do not want to be bound by a motion that might be said later on to fault one little bit which we have not been able to consider or foresee, that is a different thing.

HON P J ISOLA:

Mr Speaker, I can understand the Government not wishing to vote for the motion. They have far more information than we have, they know what is going on, we don't. What we are anxious to avoid, Mr Speaker, is a situation described in the motion and this is why I think we have to remember that there is going to be a commercial operating company which will belong 100% to the Government and Messrs Appledore will be the managing agents. The Hon and Learned Chief Minister says: "We are not going to run an operation and ruin the rest of Gibraltar". Well, I am sure they wouldn't and I am sure that that would not be the intention but the problem is that you can get a situation where you are faced with the choice of either keeping 700 men employed in the yard or doing away with a business or two and in those circumstances the choice is not free. In those circumstances one takes the lesser of two evils, put it that way. That is what we are trying to prevent now rather than later and that is why, Mr Speaker, I do not think that the Government supporting the motion, if they support the sentiments in it, I do not think the Government supporting the motion would interfere with the discussions that are taking place, on the contrary I would have thought it would have been helpful for the Government in their discussions. I am sorry I used the word negotiations, Mr Speaker. As you know, one talks of discussions and negotiations and very often, I know a lot of people say there is a lot of difference between them but I wonder whether there is but then you have got the agreement of Lisbon, and the statement, negotiations on sovereignty and discussion on sovereignty and so forth. I do not attach that much importance to the word but if somebody wants to amend it to discussions I would certainly not object to that. On the question of the Minister for Economic Development where he said the Dockyard could do sub-contracting provided that the price is right and adequate, I think that my Hon and Gallant Friend, Major Peliza, was misunderstood, let me put it that way. He was not saying the opposite to what the Hon Mr Canepa was saying. What I think the Hon and Gallant Major Peliza wanted to say was that in a commercial enterprise if you say "provided the price is right and the work is done right" it is so easy to say "the price is not right and the work is not adequate" so I think this is what he was trying to say and I can see that as an argument. You see,

the Dockyard could sub-contract, well, we would hope that that is what would happen. I think the Government would hope that that is what would happen. I am sure that the preferred operator says now that that is what would happen. But what we are anxious is that in a situation where perhaps the operator has not made a realistic assessment of labour requirements, he might be tempted and probably would be tempted because after all not only is he getting a management fee but he also gets if I remember rightly or would get a percentage on profits from the operation of the yard so there would be an incentive on the part of the operator to make it go well. I can imagine arguments being produced about efficiency, how to get the operation efficient, and to get the operation efficient it must all be housed in one place. You cannot be depending on other people to do jobs if they do not do it well - all these commercial arguments. It is a very difficult problem, Mr Speaker, I recognise this, but the idea in this motion is to bring it to the House, to bring to the House our view that these matters should be kept in mind in the discussions that are taking place at the moment and that the viability of the commercial operation should be clearly examined within these parameters and that is why we bring the motion. I do not think the argument that because of the motion passed in the House of Assembly we should not pass this one, the argument of the Hon Mr Bossano, I do not think it washes because what I am afraid of, and I am sure Hon Members on the other side of the House are afraid of, that although we have to keep the fight to keep the Naval Dockyard going, it would be utterly irresponsible on the part of any Member of this House to forget the alternative and do nothing about it. As the Hon and Learned Chief Minister knows, we have had discussions recently on the possibility on how and by what ways and means we could possibly keep that Naval Dockyard open and these discussions will, I hope, be renewed soon and we are all in favour of that. But, Mr Speaker, nevertheless, although we are all in favour of that, we are not going to be a party to suicide which no contingency plan is. And in any event if the viability is seriously in question as a result of the discussions and as a result of the House accepting these parameters, I would have thought that would lend argument and would lend force to the arguments for keeping the yard open. The parameters must be there and really, Mr Speaker, I cannot agree to withdraw the motion unless I got really specific assurances on these matters that worry us. I know it is difficult to give the sort of assurances that we want, that we require, for the Government to do it. I know that and I appreciate that but I hope that the Government appreciate that as they cannot give them for one reason or another, equally, I think it would be wrong for me to withdraw this motion which could be interpreted as an admission on our part that perhaps we should not have brought this to the House at all. I do not think that would be right and I do not think that would be proper and I think that the motion has to stay on record as far as we are concerned as representing our considered view on the correct approach in examining the viability of the commercial operation in the Dockyard. Mr Speaker, I commend the motion to the House.

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

The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon W T Scott

The following Hon Members voted against:

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 Hon D Hull
The Hon R J Wallace

The following Hon Member abstained:

The Hon G T Restano

The following Hon Member was absent from the Chamber:

The Hon J Bossano

The motion was accordingly defeated.

The House recessed at 5.10 pm.

The House resumed at 5.45 pm.

SUSPENSION OF STANDING ORDERS

HON P J ISOLA:

Mr Speaker, can I ask for the suspension of Standing Order No. 19 because five clear days notice have not been given in respect of this motion.

HON CHIEF MINISTER:

Mr Speaker, the last time that the same thing happened I said that I did not want it to be made a precedent, I have to say that again but I do not object.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order No. 19 was accordingly suspended.

HON P J ISOLA:

I beg to move the motion standing in my name which reads: "This House considers that since the discriminatory manner of opening of the frontier is now likely to continue indefinitely and thus cause serious damage to the economy and job losses, the Government should take any measures necessary to protect the well-being of the Gibraltar economy". Mr Speaker, I should say in moving this motion that the House will see that we are asking the Government in this motion to take any measures necessary to safeguard the well-being of the economy and it might be thought that in saying this we are giving a blank cheque to the Government. But obviously, that is not exactly so, what we are saying is that they should take any measures necessary, and we would support those measures, obviously, if they are seen to be necessary. We are doing it in general terms so that the Government appreciate that we are not putting any constraints of principle on any of the measures that may be necessary. We feel that the situation could become and could deteriorate so much in the next three, four, five, six or nine months that it would be wise to take measure as quickly as possible to protect the well-being of the Gibraltar economy. Mr Speaker, I know that different views have been expressed about what would be the effect on the economy if the frontier opened fully without restrictions. Some views have been pessimistic, some views have been optimistic and I do not think that it is necessary to make a judgement on them at this point of time except, possibly, to express one's opinions on it. In my view, a full opening of the frontier without restrictions in economic terms would be of benefit to the economy of Gibraltar. I have no doubt about that, I may be wrong but that is my own personal view. But where I am sure we are all agreed is that in the discriminatory manner in which the frontier has opened, there is no benefit to the Gibraltar economy and not only is there no benefit to the standards of living of the people of Gibraltar, there is also a real danger that there will be job losses. Now I know, for example, and I agree with him, the Hon Mr Bossano will say, or may say, I must never assume what he is going to say, he may say: "Well, the real problem is in the closure of the Naval Dockyard, that is the real problem", and, you know, it is true, and if the Naval Dockyard closed and there was nothing to replace it the job losses would be tremendous and this is nothing compared to that. I agree with that but we have to, I feel, direct ourselves to the problem that this motion seeks to highlight and that is the way the frontier has been opened, the discriminatory manner of the opening of the frontier and what is to be done about it. Mr Speaker, on this side of the House I expressed very serious doubts, I think it was on the 12th of December, three days before this act of humanitarianism, as it has been called, took place at the frontier, I expressed grave doubt at the bona fides of the way that the frontier had

been opened because I said that for a Prime Minister to have said when he announced the opening that people would only be able to cross once a day to avoid what was going on before, that there would be no customs and nothing was going to be allowed through to Spain by Spaniards and that no Englishman or tourist resident in the Costa del Sol would be allowed to come into Gibraltar, I said that was clear evidence to me then, it was clear evidence, that the manner of opening was intended to be damaging to the Gibraltar economy and helpful to the Spanish economy and I am sorry to say that that view was not necessarily shared by the other side. That was my view then and it has been confirmed by events. But, Mr Speaker, I can understand, and I could understand a view being taken that if the Lisbon Agreement is going to be implemented in full, if there is going to be a full lifting of the restrictions within two or three months, I can understand a view being taken that better not to do anything, let us see how it develops and then when the frontier is opened, well, we have lost out for two or three months that is not too bad, I can understand that view. But, I was gravely suspicious of the way it was done and the events, of course, I think have confirmed, if there is any confirmation really required, the view that the opening in December was in fact a clever ploy to allay international disquiet about the closure of the frontier and that people were not allowed to visit their families etc, allay international disquiet, on the one hand, and allay the fears of Malaga, Ceuta and so forth, on the other hand, and attack the economy of Gibraltar. What has happened? The Spanish Prime Minister and the Foreign Minister said that the restrictions were out-of-date and this sort of thing, the Foreign Minister said that they all had to be lifted and he looked forward to implementing Lisbon in the Spring, or having talks about the Lisbon Agreement in the Spring. Of course, when they said all that, Mr Speaker, unfortunately for us, when they said all that, they did not know really how the people of Gibraltar were going to react to the opening of the frontier on the 15th of December. They did not expect, I believe, that people would travel in their thousands across that border as soon as they opened the frontier. I do not think they expected that judging from what they saw and what they heard in Gibraltar especially political leaders say. We were proved wrong. They did not expect it but they saw it and they are not fools, the Spanish Government, they are not fools, their main aim is obviously to recover Gibraltar by one means or the other, we all know that, and when they saw what was happening they said: "Well, this suits us, it does not suit them and therefore let us keep the situation as it is". There is no excuse at all, Mr Speaker, let us be realistic and blunt. There is no excuse at all for not implementing the Lisbon Agreement. There is no excuse at all. There is no reason not to implement it because with the exchange of letters of the two Prime Ministers back in January, 1982, there was an agreement and everything is the same as it was then after the Falklands and the Spaniards intended to implement it at that date because they built a new customs

hall at the frontier, they built a road, they did everything. There is no legitimate excuse for not implementing and therefore we must look at the reasons it has not been done and make an assessment and, obviously, the reason they have not implemented it is very simply because they think they have nothing to gain from it and they have a lot to gain from the continuing situation or continuing the present manner of opening of the frontier and they feel they have a lot to gain from this. And at first sight, looking at it, if one considers the position, it does appear they have a lot to gain from it in economic terms. They are misguided actually, Mr Speaker, and the Spanish Government does make mistakes. People think they are very clever but they are not really because as the situation develops and the economy in Gibraltar deteriorates, as it will do. Let us have no doubt about it if the present situation is not arrested the economy of Gibraltar will deteriorate and jobs will be lost, and recession will set in, and parity will go quite apart from the Naval Dockyard issue, that will accelerate it but quite apart from that because the Government will not be able to maintain its level of public expenditure and the Government will be faced with a lot of hard decisions to make because in actual fact the front line is probably the private sector. That is the front line, that is what will be hit first, that is where the job losses will come. But there will be other problems that will come with it and the Government may have to take decisions in the interests of the economy as a whole to cut public expenditure and not wait for job losses in the private sector to bring things to a head. They may have to cut public expenditure in a fairly realistic way. They may not have to do it this year, Mr Speaker, because I would not think that the revenues of the Government have been hit yet in any real way and possibly if the situation continues, the revenue of the Government will be hit during the course of the next financial year more towards the end than towards the beginning and although the budget surplus that was budgetted for last year I think probably will come up to scratch from the figures that we have been discussing throughout the year, the supplementary estimates that have come to the House and so forth throughout the year, it would seem that the Consolidated Fund will be in a healthy position at March 31st, 1983, I would imagine. I am sure the Financial and Development Secretary is not going to say: "Well, now we can be complacent, we are alright for the next year", because he will see the problems that lie ahead and the difficulty, Mr Speaker, is bringing these things home to the public, to the people, bringing these facts home to them. I do not think that you bring them home, unfortunately, by just appealing to them. I know the Hon and Learned Chief Minister made a strong appeal yesterday to the people of Gibraltar but I am not so sure that that appeal will necessarily be heeded. I do not know, if it was and everybody stayed at home and all the money was spent in Gibraltar the problem would recede but I do not think that that is going to happen myself. I think

that the public have to be convinced that there is a problem and there isn't a problem for those people who have money in their pockets and wages and salaries secured in their pockets, they do not see the problem and they cannot be expected, I suppose, to understand the nature of the problem that is facing the economy of Gibraltar and through that, of course, the political structure behind it. I do not think people understand the problem that is going to develop as a result of the policy of the Spanish Government. People do not realise that this is a much cleverer attack on the Gibraltar economy than any that General Franco devised, much cleverer because it is bleeding the economy in a way people like to be bled, through enjoyment and personal expenditure in Spain. Off for the week-end at Easter, we do not have toilets in Little Bay and things like that because everybody is going off and, unfortunately, Mr Speaker, people just do not realise or do not want to realise but in our view it is the responsibility of the Government, of course, in the first instance, and of all Members of the House, to bring it forcibly, bring the situation forcibly to the attention of the people of Gibraltar by measures, by warning them of what is going to happen and what may not happen. Mr Speaker, for example, the Frontier is not opened or is it opened, I do not know. The British Government has agreed to support and sustain the people of Gibraltar as long as the restrictions continue. I would hope that they would agree that the restrictions are continuing at the present time and that they are damaging insofar as a normal situation does not exist between Gibraltar and Spain, there are no normal frontier formalities and so forth even though the Spanish Foreign Minister said this was a normal frontier as any other frontier in Spain. I tremble to think what travellers would say to that remark who have come to Gibraltar. But I am sure the question is bound to be asked at some time or another, or the thought is bound to be thrown out at us that it is hardly, how could I put it, it is open to some doubt whether we should ask for assistance from the British Government to help us in our economic difficulties brought about by us spending the money that that assistance gives in another country and that is something that I do not think the people understand or have realised, that particular problem. So, Mr Speaker, we would like remedial action, we would like to see remedial action taken to protect the well-being of the Gibraltar economy. And as I said I think a hard look has to be taken at the whole economy and measures have to follow. We have spoken of some in a previous debate, we have talked of reduction of import duties to make Gibraltar more competitive, we have talked on this side of the House, I was not saying the other side, on this side of the House, of the reduction of import duties to make Gibraltar more competitive. Seeking assurances from the Chamber of Commerce is necessary, of course, that reductions of import duties would be followed by reduction of prices so that Gibraltar becomes more competitive, so that people can be encouraged to buy in Gibraltar as much as possible. We

talked in the debate in December that if nothing goes through one way nothing should come in through the other way. Measures like that have to be thought of. Some may say a bit late in the day, the horse has already bolted, the stable door was open and the horse has bolted I don't know. But what I do know is that although personal expenditure as we have been told, mainly concerns spending money as opposed to buying goods in Spain, buying goods during the day also involves other personal expenditure apart from the goods. Measures will be unpopular, I am quite sure they will be unpopular but the guiding principle should be that the economy of Gibraltar has to be protected from the attack that is being made on it and it must be shown that it is an attack that is being made on the economy of Gibraltar. The bona fides of the Spanish Government is no longer in any doubt, there is no bona fides, now the situation is that they have seen the advantage from this measure which they probably thought could occur and they are exploiting it to the full and our duty is to protect our economy and to protect jobs in Gibraltar before they are lost. Look at my Hon Friend, Mr Bossano, and indeed all Members of this House, we see the problems of the Dockyard closure so we are doing something or trying to do something (a) to stop it and (b) if it cannot be stopped to replace it with a viable proposition. Here it is the same thing, the problem is there, it is arising, it is occurring and we have to do something to ameliorate the problem, to reduce its effect on our economy or face, as inevitably we will have to face, job losses and a deterioration in the situation of the economy followed by a deterioration in the situation of the Government revenues, followed by possibly more drastic cuts in public expenditure that could be avoided if, for example, they took place now rather than later when the thing has set in. This is what I would ask the Government, Mr Speaker, to start considering in depth and I hope that at the Budget we will have measures announced. I know the Hon and Learned Chief Minister has appealed to the public to keep these things in mind and I would hope and it would be very nice indeed if as a result of that we suddenly found a change in the people of Gibraltar, fine, but my suspicion is that we won't. I would certainly say that if it is the economy that is under attack it is the economy that has to be protected and although I agree that it must be brought home to the public of Gibraltar that there is an attack on our economy, in order to bring this realisation to them personally, they must see that measures are being taken that affect them, that measures are being taken to do something about it. I have thrown out, Mr Speaker, import duty situation, public expenditure, all very unpopular but, anyway, import duty will be popular, the import duty, public expenditure cuts, restrictions on movement of goods and any measures that are going to protect the economy. The situation is developing and measures have to be taken and that is why in this motion we say that the Government should take any measures necessary to protect the well-being of the Gibraltar economy which is now under attack. Mr Speaker, I commend the motion to the House.

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

HON CHIEF MINISTER:

Mr Speaker, it is just over 24 hours ago that I made a very long and very considered statement on the whole situation explaining the political realities of the situation and I went on to say that it is clear that there is no regard at all for the interests of the people of Gibraltar on the other side and I said: "Be that as it may we are now, I believe, fully entitled to take such steps as may be necessary and desirable to protect Gibraltar's economy in this new situation. To this end, the Government has considered a number of possibilities and I have already had preliminary discussions with the Leader of the Opposition and the Hon Mr Bossano and arrangements will be made for further discussions and for an early meeting with the Chamber of Commerce and the Gibraltar Trades Council. There will also be consultations with the British Government". It is precisely to deal with the situation which we have envisaged would arise that I mentioned that and that is why, of course, it is quite easy for us to accept the motion because that is precisely what I had in mind when I prepared these papers shortly after I gave notice of my intention to make a statement. I will deal with one or two other matters but very briefly because I think as, in fact, the Leader of the Opposition said yesterday, that that was a good introduction to what was going to be his motion today. I have to say that I was not mistaken in my assessment and there are quite a number of public statements that I made, I always believed that the day the frontier was opened the people would flock to Spain as they have done now. That they would have been as indiscriminate in their spending after the first few days of the honeymoon, of being able to go, that they would continue to do that at the same pace three months after, may or may not have entered my mind but I certainly had no illusions that people were going to feel it was patriotic to remain in Gibraltar, I never thought that. And, in fact, there may be good reasons why after 13½ years of restrictions people had the right to expand and in fact there have been given that limited right by grace of the humanitarian feeling of the Government of Spain and so be it, if they can enjoy seeing cows and sheep without spending much in the process. We used to be told that our children had never seen a cow, well, they can see plenty of cows and some bulls, too. In that respect I can say that I am not surprised. The other thing is that I did make an appeal yesterday, I would not call it an appeal, it was a warning of what was coming and I am glad to say that the reports I have is that it has gone down well. But for all I know it may have gone out well amongst people who may be doing exactly the same as they were doing before they heard the statement, amongst others. It was never my intention either that that should be an exhortation, I do not believe you can

live on exhortations. Exhortations are good in crises but you have to follow it by action and to that extent I had already envisaged that we would have and I have had preliminary discussions saying: "Are you willing to take part?" and I found very receptive answers from both the Leader of the Opposition and Mr Bossano and no doubt I shall get the same reply from the Chamber of Commerce and the Trades Council who have always contributed in times of crisis in these matters. Any measures that we take which are envisaged here would have to have the broad support of all sections of the community, of all responsible leaders I should say, it may not have the support of some sections who may be affected, but of all the leaders of the community if they are going to carry weight so that it does not seem that they are the particular ideas of any particular party for any particular reason. I mean party with a small 'p', that is to say, any particular section about the matter and of course we have had, as I said, we have a number of ideas, we have had a number of discussions, we have a number of options, and we will continue to try and bring them a little clearer before we call a broader meeting apart from the preliminary discussions, to go in with some concrete ideas to start with and I would urge others to do the same. Everybody floats ideas now, I have already had very interesting suggestions but immediately you put it to the test in respect of one section of the community you show how unacceptable they are. It is alright saying a departure tax of £5, but what do you do to a Spanish lady who wants to see her mother, is she going to pay £5 to see the mother? Certainly it is cheaper than going through Tangier but you cannot do it as often, anyhow, as you are doing now. With regard to the support of the British Government, I see that the Leader of the Opposition has also echoed that feeling or has also stated that feeling about our friends and the people who have got to support us saying: "You are contributing to your own difficulties". So far we have been able to say throughout the period of restrictions that they were for reasons outside our own control and that the restrictions had been imposed on the people of Gibraltar and that we had no control over them. Now we come to a stage where we could be accused if we do not do something, if people do not cooperate in the application of it, that we would be contributing to our own misfortunes if we did not exercise an element of restraint in this respect. And I said that we might lose an element of support from the British/Gibraltar Group, we could not be belly aching about difficulties in one respect and trying to divorce it from difficulties that we might have brought upon ourselves by our own actions. There is a point here which of course I entirely agree with and that is the effect that it will have on the economy, indeed we have been struggling with the Budget and we have had all these difficulties in mind as Hon Members will see when they get their own copy of the draft estimates, they will see that we have put in a lot of work into trying to reflect in the Budget the possible difficulties that would arise by a continuation of this, or even with restrictions there will be difficulties. That is

another matter which of course we have had in mind but it is not just a question of parity of wages and wage earners. They will be affected and they may be the ones, too, who are spending the money but there are other people who are spending more money who are not wage earners and who can have more effect on the wage earners than the wage earners themselves and that is the people who make the profit here to spend it in Spain. Those are the people, too, whom I pointed out yesterday who we have to bear in mind. We also have to bear in mind, as I said in my statement, the relativity between the protection of the consumer, or rather the advantages of the consumer against the advantages which some traders may have taken at a time when there was no competition. In that respect I would be less than sincere if I did not say that I get a feeling from talking to many of the people, perhaps the wage earners, some of the wage earners, who perhaps to pacify their consciences or perhaps in all sincerity think that after all why shouldn't they go and buy things cheaper across the way when for 13 years they have been paying more than they should have paid for certain goods. It is a feeling which is very strongly held in many quarters and these are all interlinking factors like all things that happen to us here from a very complicated situation. If, in fact, the situation is brought about by people either deliberately to destroy our economy or as a result of a misguided understanding of what humanitarianism is, certainly we should not be a party to it. I think that having regard to the feelings and the thoughts that led me to sound the word of warning yesterday as I did in great detail, I do not think that it is necessary for me to go through the whole spectrum of the economy in order to support the motion which of course follows naturally from what I said yesterday. I often wonder how much is known at the top in Madrid of what happens in the nitty gritty of the frontier here and how much hypocrisy there is in some of the remarks made by prominent people in office. I have good reason to believe that certain remarks made of surprise that the humanitarianism of the opening of the frontier was affecting the economy expressed in a certain television interview, that a warning of that had been given to that person long before by a well meaning interlocutor, so that either he had forgotten, he was bored, he was annoyed, or he could not care less.

HON A J HAYNES:

Mr Speaker, perhaps Members opposite will not like to hear what I have to say on this motion but, no doubt, they will voice their disagreement in the usual manner: "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. 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.

MR SPEAKER:

Are you quoting someone or is this your text?

HON A J HAYNES:

I am quoting from the Chief Minister's statement or intervention of the 12th December, Sir.

MR SPEAKER:

Well, that is what I wanted to know.

HON A J HAYNES:

"I honestly believe that and whether we like it or not they will present something plausible. But I think that whatever we say about that, the courage of having at the very first meeting of the Council of Ministers of the Socialist Government taken a decision on the matter as sensitive nationally as the question of the frontier I think it deserves credit or a lot of courage. I do not think that there is that ulterior motive having regard to the effect that it would have on the Spanish economy and I do not blame him - Felipe Gonzalez - for having said that he proposes to protect the economy". Mr Speaker, I am not sure whether I should go on, perhaps there is one further reference which I could remind the Hon Chief Minister of. "What the Socialists have done" - Sir, this appears on numerous part of his intervention - "what the Socialists have done is what they have always said 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 election, they said that before they knew that they were going to be elected. They put it into 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 everywhere in the world".

MR SPEAKER:

No, with due respect, let us not quote from Hansard to this extent otherwise we are going to have to reprint it twice, once when it was originally said and this time.

HON A J HAYNES:

I take your point, Mr Speaker. I am not sure what the reaction of Members across the road or across the way are from hearing the voice or the speech of their leader only three months ago but it does strike me, Sir, that the old man of foreign politics is now just the old man.

MR SPEAKER:

No, with due respect, shall we come back to the context of the motion.

HON A J CANEPA:

Mr Speaker, who does he refer to in saying the old man of politics?

MR SPEAKER:

I am not quite sure.

HON A J CANEPA:

Is he referring to the Hon the Chief Minister or is he referring to somebody outside Gibraltar?

HON A J HAYNES:

I am afraid it is the Chief Minister who has put himself out as the saviour of Gibraltar.

MR SPEAKER:

Order. We will now come back to the question before the House.

HON A J HAYNES:

As regards the motion, Sir, we are putting forward a motion which in turn is very similar to that motion brought before this House on the 12th of December which was thrown out and now perhaps, Sir, we will be listened to with more clarity and that is the reason why I have quoted to the Chief Minister parts of his intervention at that stage.

HON CHIEF MINISTER:

Perhaps the Hon Member, after having had his diatribe, may give way. I have to remind him that I had given notice of my making the statement before the notice of motion was given.

HON A J HAYNES:

I am not sure what to understand from that, Mr Speaker.

HON CHIEF MINISTER:

No, you don't understand I imagine that your intelligence does not go far enough, you have only got malice in that head.

HON A J HAYNES:

I do know that the diatribe, Mr Speaker, are the Chief Minister's own words being repeated to him. Sir, in analysing the reason why Government should accept this motion, one must accept the four gross blunders made by the Chief Minister in December of last year. The first one, Mr Speaker, and I think they are all underlined by the statement which I have read to you, are that he refused our request for measures to be taken from the outset of the announcement that the Spaniards were going to open the frontier. Had this House at that stage acceded to the request of the Opposition in their motion, perhaps there would not be the reluctance in opposition which the Chief Minister presently anticipates in the introduction of measures. Now the people have grown used to going through they will not take kindly to measures to control them.

HON CHIEF MINISTER:

You are trying to go there yourself.

HON A J HAYNES:

Secondly, Mr Speaker, the Chief Minister bungled, and there is no other words for it, the question of a 24-hour frontier.

MR SPEAKER:

No, with due respect. I am not going to accept a motion on a particular matter to start censuring the Chief Minister for anything else he might have done in the process of his interventions in the House, I cannot and I will not allow it.

HON A J HAYNES:

Mr Speaker, may I have a ruling on this?

MR SPEAKER:

You have had a ruling, you are out of order.

HON A J HAYNES:

No, if I may be allowed to expand, Mr Speaker, my purpose is to show how the Chief Minister was wrong in his interpretation of the events in December.

MR SPEAKER:

But that is not the object of the motion, the object of the motion is that the present system at the frontier is such as to be damaging to the economy and that measures should be taken to counteract this. That is the way I look at the motion and that is the way it has got to be interpreted.

HON A J HAYNES:

Mr Speaker, I would crave your indulgence to express that the reason why we believe that Government should take measures necessary to protect the wellbeing of the economy are partly as a result of their failings in the past and that is why I would like to express what their failings have been. It is why I have said, Mr Speaker, that the difficulty of introducing measures now has been exacerbated by the incompetence of the administration three months ago and on that basis, Mr Speaker, I ask to be allowed to expand.

MR SPEAKER:

Well, you go ahead and we will see what happens.

HON A J HAYNES:

Mr Speaker, the second, as I say, misunderstanding of the Chief Minister which is going to make it more difficult to introduce measures now, was in his approach to the 24-hour frontier. He said no to the measure introduced in the debate by us of usual hours. Two days later he changed his mind and I should also remind the Chief Minister - I do not think it is necessary for me to quote and certainly after your ruling I shall not - he reminded the House, he echoed the words of the Gallant Major who reminded this House also that matters relating to the frontier were non-defined domestic matters which required the approval of the Foreign Office. The Chief Minister himself said this on the 12th December. Two days later he takes a decision without consulting with the Foreign Office, the result we all know was that he was overruled. That was a disaster, in my opinion, for Gibraltar, what a loss of face, what untold damage has this caused our position. Not to say it has

undermined the prestige of this House, the prestige of this House which is essential, in my submission, if we are to introduce measures to protect our economy. His third mistake, Mr Speaker, was to enthuse over the Spanish announcement. There is no need for me to read his statement again but I would like to refer to the impression and to the statement made by the Leader of the Opposition at that same debate based on the same information available to the Chief Minister. I shall be brief: "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 election' - but he does not say that he has not done what his Foreign Minister said he would do in the Man Alive programme of 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". In summary he says: "What they said then was that 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'". I think the Leader of the Opposition in his analysis, in his interpretation of what this augured was 100% correct and the Chief Minister, however, overruled this side of the House, overruled the doubt and the result of that has been to exacerbate the situation. Because by misreading, and this comes to the fourth problem and perhaps the most serious of all, by misreading the situation he has misled the people of Gibraltar. The Chief Minister's effusion, his reluctance to introduce measures have resulted in the raising of false hopes in Gibraltar. The Chief Minister's approach to foreign policy then can only be equated to that of an old big

MR SPEAKER:

No, I am going to stop you now, with due respect.

HON CHIEF MINISTER:

Mr Speaker, I really must ask for your protection if I am going to be here to be slated in a manner which has no relevance at all to the debate to the extent of insulting. It is not becoming the proper conduct of the House to have to listen to this and if he carries on like this I shall have to walk out and all the Ministers will walk out.

MR SPEAKER:

Mr Haynes, to the extent that it is relevant to the debate you are entitled to say what you have said. To the extent that you go beyond the orbit of the debate I have stopped you and I will continue to stop you if I have to.

HON A J HAYNES:

Mr Speaker, I may add that I have now finished the analysis of the 12th December so the Chief Minister need not concern himself. It appears that he now has accepted a change in the situation, he has arisen from his reverie as can be seen in the statement of yesterday but it is irksome to us that in paragraph 4 he refers to his 12th of December intervention, paragraph 4, where he says: "While regretting the discriminatory nature of the partial opening I welcomed the move itself when it was announced as a step in the right direction". I think, Mr Speaker, he did a lot more. He more than welcomed it as a step in the right direction, he made it downright difficult for us to introduce measures but I am not here just to outline the kind of measures which we expect to be seen introduced in the sense that we hope that the Chief Minister has now got a clearer understanding of the problem and he will not just see introducing negative measures as a way of protecting the economy. We believe that measures, the kind of measures that we ask for in this motion for the wellbeing of the economy, are not necessarily all of a negative nature. The example of the import duty reduction is in itself positive but over and above the ambit of the economic measures, Sir, there is one further measure which is measures to be taken to break the blockade once and for all. The Chief Minister is forever saying: "We can do nothing about that". Well, I challenge that statement and I ask the Chief Minister to take positive steps. I believe that we now have sufficient evidence to establish in any international forum that the partial opening has been hostile in nature. In my submission the Chief Minister should be preparing to storm the machine of Spanish propaganda which continues to oppress the people of Gibraltar and let us start, Mr Speaker, by making public our grievance and by genuinely embarrassing Spain in a European forum. I ask, therefore, that the Chief Minister instead of staying here and saying there is nothing we can do about it, that he should use his contacts, which are considerable. . .

HON A J CANEPA:

Does he have the prestige any longer, I thought you said he didn't.

HON A J HAYNES:

He should use his contacts to visit the European Parliament and explain to Spain's possible future partners the risks that they may take if they allow Spain to join the Community. This, Sir, is in my submission a positive measure and one which can be extended further depending on its success and which may result in precipitating Spanish foreign policy and allowing us to live in peace. I ask, therefore, Mr Speaker,

that we rise to the occasion, that we fight our disappointment and our disillusion and I ask that we do not be fooled again and the Chief Minister, perhaps if I started by quoting him he will appreciate that I end by quoting him from his statement: "It may be thought that I have said some harsh things, I have done so, but I believe they needed to be said. Gibraltar is a democracy and if what I have said is not representative of the views of the great majority we shall know the answer in the very near future". I commend the motion, Mr Speaker.

HON M K FEATHERSTONE:

Mr Speaker, the Hon Leader of the Opposition and his other colleagues who have not yet spoken have my sincere sympathy because the look of embarrassment on their faces at the conduct of the last Member and his vituperation has clearly left them in a great state of embarrassment. I do not need to defend the Chief Minister, he can do that very well for himself but regarding his statement on the 12th of December had he started off by denying any possible honesty in the attitude of the Spanish Government when they said they were going to open the frontier on humanitarian grounds, he would have been decried I am sure by the Opposition immediately as putting a spanner in the works. But, of course, when you have a certain gentleman who I understand is one of the Members of the House of Assembly who is following a tacit agreement not to go to Spain although this is very much against his personal wishes, one can understand that he does not like the situation. I was going to say that we are going to be possibly fifteen Jeremiahs, but perhaps after the Hon Mr Haynes' intervention, we will only be fourteen Jeremiahs.

MR SPEAKER:

No, perhaps there will still be fifteen because I think there were sixteen Jeremiahs.

HON M K FEATHERSTONE:

We have to some extent ^{to} tell the people what is almost a prophecy of doom, and unfortunately in many instances people do not heed prophets of doom. One thing in the Chief Minister's statement yesterday was a very pertinent phrase, in fact, somebody has said perhaps it is going to be headlined in a newspaper any day now. Are the Gibraltarian "panzistas"? Well, I will tell you a little story about the way I see it. There were a lot of people who did not like the attitude at the frontier before it was opened, so much so they said that they were going to build a brick wall across the frontier and keep it closed forever. Then the frontier opened and they decided to go to Spain because they heard that bricks were cheaper over there and once they had

gone over there and they had enjoyed the fleshpots of the Sierra Nevada and the Costa, they forgot all about the wall. I wonder, Sir, are we not to some extent like the lemmings who rush to drown themselves in the sea? Are not the Gibraltarians rushing to drown themselves in a sea of Spanish spending? Now, Sir, are we to believe Señor Moran when he said the La Linea customs is like any other customs in Spain? We could be generous and believe that he is being misled about the La Linea customs by his officials, or it might be that he deliberately prevaricated the truth. That is something that we shall have to see and I would hope that the British Ambassador in Madrid will challenge Señor Moran to verify and see the truth of his statement that this customs is just the same as any other. Now, Sir, although the motion does have one or two little facets which we might not fully agree with, the facet that it says it is now likely to continue indefinitely, I think that perhaps goes a little further than might be the case since it has been said that talks will continue between the Spanish Foreign Minister and Mr Pym in the coming months, basically the Government is willing to support the motion but we must consider what we do most carefully and they must be realistic measures that we take and amongst the realism we must have the blessing of the UK to such measures. For example, some people talk a little glibly why don't we put exchange control on. Well, I cannot easily see the United Kingdom agreeing to exchange control on the Gibraltar frontier only. And even if there were exchange control, would it work? So many things can be purchased in Spain today by means of the simple credit card so that an operation of exchange control would break down almost immediately when a person went to Spain and made his purchases or paid for his leisure activities by the use of American Express. The Government will do its utmost but the real answer to the situation, I feel, lies with the will of the people. I cannot do more at the moment than repeat the Chief Minister's view-point in his statement yesterday. We must ask each and every person to show restraint preferably not to go to Spain and if they must go or if they go to visit family, to cut down their spending to the absolute minimum. This is a challenge to our dignity as Gibraltarians, let us rise to it, let us show if such be the case, that Señor Moran and Señor Gonzalez's ploy to ruin the economy of Gibraltar under the guise of the phrase "humanitarian grounds" is to fail. As I said, Sir, the motion, although not fully having the wording I would like, I find I can support.

HON A T LODDO:

Mr Speaker, I sometimes think that politicians are a bit like soldiers, if everything is going fine they are both considered at best a luxury which sometimes one can ill afford and at worst a nuisance or even a menace, but get a crisis and the army, the soldiers, become our gallant heroes, our brave young men and the politicians become more than just civic leaders, they have to become nothing short of magicians and

miracle workers and I suppose that perhaps this is only natural that people should think in these terms. The interview of Señor Moran must have been an eye opener to a lot of people. Today anyone in Gibraltar who had deluded himself or had allowed himself to be deluded into thinking that Spain had changed her attitude towards Gibraltar, today he must really take a second look, take off his rose tinted spectacles and face reality because if we do not face it now, when the time comes, when the day of reckoning arrives, I think we are all going to be in for a very severe shock. The question a lot of people in Gibraltar are asking today, and I am sure that they have asked all of us here, I have certainly been asked it: "What are you doing about it? What are you going to do about it? You must do something". And when they say 'you' they are not referring to the DPBG because I am DPBG and I am sure they are not referring to you as AACR or GSLP, they are referring to you as a leader of the community. Party barriers have been broken down for this, this is now too big. We are all being asked to give leadership and the people want a responsible leadership, and although the leadership must come from all of us, of course, it is the case of noblesse oblige and the Government have to lead in this leadership. There are some things that we just cannot do. We cannot keep on asking the United Kingdom to keep on pumping money into Gibraltar, to keep the Dockyard going, to keep parity going and to maintain us in the style we have been accustomed to maintain our standard of living which we have gained after years of struggle. Some have struggled longer, some have struggled for less but it has been a struggle and we cannot keep on asking for this and at the same time spend over there money hard earned over here. If I may also tell a little story. When I heard that the frontier was going to open on the 15th of December the advice that I gave to my friends was: "On the 15th of December, do not stand in Winston Churchill Avenue". When they asked: "Why?", I said: "Because you might get buried in the rush". And in fact, Mr Speaker, the partial opening of the frontier resulted in nothing short of a shameful stampede followed by an orgy of spending the likes of which I do not think we have ever seen in Gibraltar, people were spending money as if they thought it was going to go out of fashion. And this has just got to stop. We cannot live beyond our means and I feel that we have been living beyond our means. You are not going to get the people to stop of their own accord. There were people who said: "Don't worry, once the novelty wears off, people will stop". Well, the novelty of La Linea might have worn off but now we have Sierra Nevada, we have skiing, we have Seville, Jerez, football matches all over the place. One thing is certain, that this will only last as long as the money lasts. Today Gibraltar is facing its most critical challenge since the closure of the frontier. At the time of the closure of the frontier the sheer size of our adversary proved, if nothing else, as it is proving again, that we just cannot do it alone - Independists please take note. However, for the first time that I can remember there is something that we the Gibraltarians can do of our own accord and that is what has

been already stated in this Chamber twice. We can do something about it by not going over and by not spending our money over there because whatever measures we take must surely not be of a retaliatory nature, whatever measures we take will not cripple the Spanish economy. The measures we take are obviously aimed at maintaining our economy and the simplest measure but paradoxically the most difficult one to implement is in our own hands - we stay in Gibraltar. If we have to go to Spain as some people will no doubt have to go to Spain, then by all means go but go for the reason which must be a valid one, or should be a valid one and come back. Your hard earned money which you earn here you spend here. We should at this time put country before self. Before I finish I would also like to say that we should also ensure that the consumer in Gibraltar is not held to ransom. In certain areas I am sad to say the consumer has been held to ransom and although justice has been shown to have been done in essence, really, I do not think it has been done and we, in advocating a policy of stay at home and spend your money at home, we should not put ourselves in the position of having this thrown back in our faces that the consumer is held to ransom and that is why we are going across the border. Thank you, Mr Speaker.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I was impressed with the contribution of the Learned Leader of the Opposition in the way he introduced his motion and I sincerely believe that he expressed the conviction of all of us here. I have also been impressed by the way that the Hon Mr Loddo has conducted himself and I felt that this motion was going to be a motion which was going to unite us, not only as a Government and Opposition but as people of Gibraltar, but I am sorry to say that the way that the Hon and Learned Mr Haynes has behaved has rather shattered the esteem that I had for him. I am really surprised because I have been a bit longer than he has in this House, and I certainly have never been disrespectful to the Leader of the Opposition and, in fact, I do not think I have ever been disrespectful or shown any kind of antagonism towards any Member on the opposite side. I myself find it quite shocking that probably the youngest Member of this House should make such a personal attack on the oldest Member of this House, to me it is quite shocking. I will give you an illustration of Sir Joshua's political knowledge of foreign affairs. When the Lisbon Agreement was announced, none of us were consulted in Gibraltar, it was a fait accompli. Sir Joshua, the very next day, I think it was about 10.30 in the morning the next day when we found out officially, said: "But this is not going to happen, the frontier will not open". And I said: "Why is that?" and he said: "Well, unfortunately, the Foreign Secretary" - who I think was then Lord Carrington - "does not know that the chap who signed it is the Foreign Secretary of Spain, and it does not mean anything".

HON MAJOR R J PELIZA:

Would the Hon Member give way? Can he explain why the Government then spent so much money in getting everything ready for the opening of the frontier?

HON MAJOR F J DELLIPIANI:

Yes, I can explain, I can certainly explain that. I can explain that because we cannot act on feelings ourselves, on how we feel on the situation. It would have been quite stupid for us for the Spaniards to have done the opposite. We had to show that we were ready, we had to show the British Government that we were ready. We did not have to show the Spaniards that we were ready. We had to show the British Government that we were ready for a full opening of the frontier. And, in fact, if I remember, the Hon the Chief Minister had a bet with the then Governor. I think the bet was 10p and he won. Let me go back now to the 12th December which the Hon and Learned Mr Haynes has mentioned so much. On the 12th December when it was announced that the frontier was going to open on the 15th December, we didn't know that it was going to be discriminatory. I think most of us felt that we did not like it, even though we did not vote in favour of the question of the closure of our side of the frontier. I think we were more or less thinking in terms of security and fears that the people of Gibraltar had of having a full opening of a frontier which we never had before. We were not thinking in terms of a discriminatory opening because we did not know it was going to be discriminatory. It was only on Saturday morning that we found it was discriminatory over the radio and I think we met on Sunday morning and I am sure that no one is going to believe that the Chief Minister does not know that the Foreign Secretary or the Foreign Office can overrule his decision. But we had to show how annoyed we were that this was discriminatory and the only way we could show it was by acting in the way that we acted, by advising the Governor that we wanted at least the border to remain as it was before. That is why we did it. But we knew full well that the Foreign Secretary could turn around and say: "Don't throw a spanner in the works, you are going to spoil things". And the fact that we did that gesture has strengthened our position now because we were telling the Foreign Secretary then that they were wrong because we have been proved right again. But we still have to act in a sensible manner because, after all, Great Britain is responsible for foreign affairs, so we have to go along whether we like it or not with the way they are thinking. They think that they know the Spaniards better than anybody else. They think that with their British diplomacy and their traditions, how famous they are for being the best diplomats in the world, that they can understand the situation in Spain better than anybody else just like they thought they could understand the situation with the Argentinians. And they did not because they do not know how the mind of a Latin works,

we do. So there is no question that there wasn't any political awareness in Gibraltar by the Chief Minister. What we can never be accused by the British Government is that we are throwing spanners in the works. The Spaniards themselves and the British spoilt it because the British do not understand, and when I say British I mean the United Kingdom, they just do not understand the Spaniards and the Spaniards still do not understand the British. But we understand them both. I am glad to say that the manner that the Hon Mr Lodo has presented his contribution to this House, that I have toned myself down slightly and I am beginning to forget the things that the Hon and Learned Mr Haynes has said. Thank you, Mr Speaker.

HON J BOSSANO:

Mr Speaker, I am not going to say a lot. Let me say that I had serious doubts about the motion before I heard Members speak on it, and that the doubts have now been removed, I am absolutely sure now that I will not support the motion.

HON MAJOR R J PELIZA:

I had no doubt that he would not.

HON J BOSSANO:

We all seem to be clairvoyant in this House, Mr Speaker, after the event, of course. I am not certainly going to indulge in what I fear to say is almost becoming a national pastime and used to be a mediaeval custom of self flagellation, we do penance, and I am not going to do that and spend half an hour telling everybody here and everybody outside here how badly we are behaving and how much damage we are doing. I did my analysis in the motion brought by the Hon and Learned Member, the Leader of the Opposition, to the House in December on the question of the frontier opening hours, where I said that I was supporting it in spite of the fact that I thought it was a meaningless gesture in practical terms but a very important gesture in symbolic terms, and I supported it for the very reason, in fact, that the Government failed to implement it because I do not take orders from the Foreign Office and I do not think we should. And I certainly cannot see what is the point of asking the Government to take whatever measures are necessary to protect the wellbeing of the Gibraltar economy and in support of that motion to quote, as the Hon Member that has just spoken has done, that we have to go along whether we like it or not with whatever the Foreign Office says. Well, let us first find out from that Foreign Office what they allow us to do and forget motions in this House or policy decisions. If this is foreign affairs and we have to ask them to do whatever they think we should do, then the House can count without my support. It will be the Foreign Office and the other fourteen

elected Members but it certainly will not be me or the GSLP. Nor do I agree, as the motion says, that since the discriminatory manner of the opening of the frontier is now likely to continue indefinitely and thus cause serious damage to the economy and job losses, the Government should take measures necessary to protect the economy. The Government has got an obligation to protect the economy whether the thing is likely to continue or not. Are we saying that if Señor Moran has a change of heart in April in his Brussels meeting with Mr Pym we then backtrack because it no longer appears to be indefinite, we no longer have to take measures. Well, I do not agree with that. Nor do I agree with the explanations that have been given in support of the motion ascribing the evil intent to the Government of Spain to cripple the economy of Gibraltar. This is not a ploy to cripple the economy of Gibraltar it is not my job in this House of Assembly, Mr Speaker, to defend the Government of Spain, or the Government of Britain, or anybody else. My job here is to defend the policies that I stood for election on and which I will put back before the electorate at the next election we have. That is what I am here elected to do and nothing else. But if on record we have statements put I think it has to be put on record also that those views are not unanimously held by all Members of this House otherwise, by default, if anybody stands up and says something different, it would appear unchallenged that one accepts those statements. I do not really see that it is of direct consequence to this except that if the implication is that there is a discriminatory manner of opening the frontier, you know, we talk about reciprocity, well, what does it mean? What do we mean by reciprocity? What do we mean by discriminatory? Do we mean that provided they do not allow us to bring beetles back from Spain it is not discriminatory because it is on the basis of equality and reciprocity so they can stop us from taking beetles there, is that what it means? That removes the discrimination. If they stop somebody bringing a trophy back into Gibraltar provided they also stop somebody taking a trophy from Gibraltar back into Spain there is no discrimination. The effect on the economy is not the result of people not being allowed to spend money from Spain, although that has got an impact, it is a result of people from Gibraltar spending money in Spain and that they are not being forced at gunpoint by guardia civiles to do, they are doing that voluntarily and freely. And there is a reason why they are doing it and that reason is, as I said in the previous motion, Mr Speaker, you cannot legislate like King Canute to push the waves back. There are economic factors, economic forces in the relationship between the economy of Gibraltar and the economy of the hinterland and those economic forces are working in one direction. And the consumers who are today spending their money in Spain have improved their standard of living because they are buying more with the same money. They have improved it partially at the expense of the people who lose their business or their jobs in Gibraltar but also at the expense of the fact that the cup of coffee that they buy in La Linea is being served to them by somebody who has

got an inferior standard of living. That is part of the essence of economic analysis. If you go for a holiday to India, the fact that you get food there cheap is because there are millions of Indians starving. That is part of the reason. And if you go to an Indian restaurant in Gibraltar you cannot expect to get the same thing because we demand certain standards in terms of employment and wages and so on. That is the consequence of the economic situation. The Hon Member in introducing the motion said that he was not giving the Government a blank cheque. Well, the motion asks the Government to take any measures necessary to protect the economy which I understand the Government had already indicated they intended to do in the statement they made. When I was consulted by the Chief Minister, as I said earlier, I was just told that this statement was going to be made, that it was going to mention me and that he wanted an indication from me whether I would be prepared to take part in the consultation that would follow after this House and I said yes. I said yes because I believe that when an approach is made to me I should respond to that approach but reserve my position until I see in concrete terms what precisely it is that the Government wants to do and then if they want my opinion, which they do not have to take, they have got a majority, but if they want my opinion, I will tell them my opinion for what it is worth whether I am prepared to support it or not and if I support it I will defend it publicly and if I do not support it I will say publicly that I do not support it. I do not see that the Government has got any difficulty in accepting that because as I see it that is what they indicated in the statement they intended to do. I certainly cannot go along and say let the Government take the measures necessary because I need to know in whose judgement are those measures going to be necessary, in my judgement, in the judgement of the Foreign Office? Is it going to be put to the vote in this House of Assembly or is it going to be the Government itself? I would have thought the responsibility lies with the Government and the Government should come along with what they think is necessary and either amend it, if they get a feedback from ourselves or from the Trade Union Movement, or from the Chamber of Commerce, or having listened to the view of others, if they are still convinced that they are on the right track then they have got the responsibility and the right to defend their programme, their policy on dealing with the situation. I think, both on this occasion and on the last occasion, in fact, what the House has concentrated mainly on is in pointing to the existence of a problem which I think we all know is there, rather than in pointing to the solution which, of course, is much more difficult to do. It is easier to know what the problem is than to know what the answer is. Certainly, I would have serious doubts myself that reducing import duties would alter the situation and I think the Government in responding to that said that purely from a Government finance point of view if a reduction of duty is not compensated by an increase in volume which at least maintains the same yield, then the net result of that

is a loss of Government revenue without necessarily that loss of Government revenue being sufficient to compensate perhaps, for more jobs being kept in the private sector and revenue coming in some other way. But, certainly, if the Government comes along and says they are going to lower the import duty I will support it, irrespective of the wisdom of the situation because as a consumer obviously it is better to pay less duty than to pay more duty. The number of statements that are made in respect of the debate, Mr Speaker, and in a way I have stood up because I really feel that we were not really making any progress in terms of the motion itself. For example the Hon Mr Loddó talked about keeping on pumping money and Britain maintaining us in the style to which we are accustomed, well, I take very strong objection to that. I do not think that that goes contrary to a lot of statements I have made in the House previously about the relationship between Gibraltar and Britain but I do not think it is really relevant to the motion. I think as regards the contribution that Mr Haynes had to make perhaps he went a little too far in the way he put it across but let us face it what he was doing I think was a perfectly legitimate exercise. He was quoting a previous statement in this House and pointing to a contradiction but let me tell the Hon Member that it is very difficult, in fact, not to contradict oneself between one point in time and another. I go back as you know, Mr Speaker, over previous statements that I have made and other people make in this House and one would need to be almost infallible not to say things which turn out to be incorrect at a later stage. But I would agree with him that the reaction of the Chief Minister to the pedestrian opening was certainly a much more enthusiastic one than that of the Leader of the Opposition and my own reaction was to say as far as I am concerned it is neither here nor there. I want the Lisbon Agreement stopped and if this is a step in the right direction towards its implementation then as far as I am concerned it is a step in the wrong direction, I am against the Lisbon Agreement. And if this motion feels that we need to do something because the frontier is going to stay as it is at present indefinitely because the Lisbon Agreement is not going to be implemented, then my view is that we would be facing the same problem or, possibly, an even more serious problem had it been opened completely. And I have explained in the House why before, Mr Speaker, I explained it the last time. It is not simply a question of people coming here and spending money. If you have a perfectly normal customs control in the La Linea frontier and Spaniards come here and buy Japanese goods, the Spanish customs are perfectly entitled to levy the same duty on top of the duty we have already levied as they would if the goods came straight from Japan to Spain. And if we think that is discriminatory then it isn't that we want Britain to keep us in style, it is that we want Spain to keep us in style and that is total nonsense. Spain has got a claim over Gibraltar, a claim that I reject. I do not accept the validity of the Spanish claim and I am not prepared to talk with Spain of Gibraltar's sovereignty. But that does not

alter the reality that as far as the Spanish Government is concerned, the present one, and any future one, for the time being, anyway, the position is that they consider that this is their land, not our land, and that therefore the policy that they have taken on the frontier is a policy that they can defend internationally. I think the Hon Member quite frankly, the Hon and Learned Member, Mr Haynes, is being extraordinarily naive if he thinks that the Chief Minister can go trotting off round the Ten in the EEC and tell them: "Don't let Spain in because look how nasty they are being to us". Because they are not being nasty to us, what they are doing is saying: "Right, we are opening the frontier to allow Gibraltarians to walk into Spain and visit Spanish friends and relatives and to allow Spaniards to walk into Gibraltar and visit friends and relatives". And then, in practice, they are being nasty in a number of ways with fishing rods and so on and so forth. That is the essence of the step that they have taken. And the policy that they have taken is that Spain is not going to do anything that will sustain the economy of Gibraltar because they do not have to do anything to sustain the economy of Gibraltar because they do not want the economy of Gibraltar sustained. If they want us to change our minds, you know, we may preach to them, as I think we have been doing, that they should be wooing us but I think the Spaniards are no fools. The Hon and Gallant Member says that we know the Spaniards better than the British from UK do. I agree, but I think the Spaniards also know us quite well and I think the Spaniards have got no delusions that if they showered us with gifts we would come loaded back with the boots of our Hondas full of the gifts and then we would do what we do when we depart from not very congenial company when we go to the frontier. That is what we would do when we got to our side. And I think the Spaniards have got no doubts about that so that they are not going to shower us with gifts. They are out to show what they have been trying to show unsuccessfully for fifteen years, what the Chief Minister said, I think, in his Budget speech in 1981 when he was saying how solid the economy was and the prudence and the foresight of the Government had finally created a situation where, what would Castiella be saying now, who thought that Gibraltar could not survive with Spain, well, that is what the Chief Minister said in 1981, I wonder if he will read that little bit in the Budget speech of 1983, Mr Speaker? We are, in fact, not looking at the situation realistically if we think it is a question of mounting an international campaign against Spain because I think Spain can, in fact, defend itself very well in the current situation. I think the one area where they were on the defensive before was the area of separating families and because the incoming Government recognised that as the one weak point in their strategy what they have done, rationally, with a lot of political soundness is to remove that weakness. And what have they left us with? They have left us with a situation where they are telling us: "Right, we are not preventing you from coming into Spain to spend your money, if that is what you want to do, but we are preventing our nationals from going to

Gibraltar to spend their money and we are preventing our tourists from going to Gibraltar to spend their money because, obviously, if every pound that a Gibraltarian spends in Spain is one pound less in the economy of Gibraltar, by definition, every pound that every German tourist or every Spanish national spends in Gibraltar is one pound less in the economy of Spain. Now, clearly, if they came in and they spent £1m it would be a drop in the ocean for the Spanish economy. If our people go over and spend £1m it is a disaster for us because of the relative sizes of the economies but what they are saying is that they are preventing that £1m coming in because they do not see why they should support and sustain the economy of Gibraltar. That is the message. We may not like it but it is a message that we have to accept because we do not want to be Spanish and I accept it, Mr Speaker. I think that is the only realistic way to look at it, I think the motion quite frankly does not take us beyond the statement that the Chief Minister has made. I am prepared to take part in this consultation process but I shall have to wait and see what the package looks like before I can say I will give it my political support.

HON MAJOR R J PELIZA:

If the Hon Mr Canepa will allow me, perhaps he would like me to speak before him. I would like him to realise that I would like to be perhaps misinterpreted by him for a change rather than be told that I misinterpret what he says. I am not going to be long, Mr Speaker, that must be a great relief to you and no doubt to the Members of the Government and the Opposition. There are a few things that I would like to say and perhaps the first thing I would like to do is bring the House back to the essence of the motion which is really what are we going to do to stop the leakage which the economy is now suffering from and suffering seriously. And also, Mr Speaker, one of the other things I would like to do is perhaps to exonerate to a large extent the people who are causing the leakage. I do not see it in the same light as the Chief Minister sees it and I would like to put my point of view. I think his statement is a bit harsh as far as the people of Gibraltar are concerned particularly when he announced at the beginning of this that this was a great triumph and particularly when he gave no warnings of the dangers that could result from the opening of the frontier and therefore there was no reason why the people themselves should feel that they were doing anything wrong until, perhaps, last night, when he made the first statement, a statement perhaps that if he had made it 20 years ago we would not be in the position that we have today. Therefore I think that whether we like it or not, and I am sorry that the Chief Minister is not here so that he would hear what I am saying. If he had done this 20 years ago the whole situation of Gibraltar might be very, very different from what it is today. And if we are at the brink now he must carry that responsibility and so must the responsibility fall on the shoulders of

all those who have formed Government for him for many years back. It has been a complete misjudgement in foreign affairs and all his knowledge, I think, has been destroyed by the manoeuvre of Señor Moran who no doubt led him up the garden path right to the very last moment and I think it is not fair to put the blame now onto the people of Gibraltar when it has been through a misjudgement on his part. Mr Speaker, what are we going to do about this? I would have liked as my Hon Friend, Mr Bossano said, that the Government should have taken the responsibility which is theirs in the three months that have gone by to have a plan which they would have introduced into this House today as measures that they propose to take or if they were incapable of doing that then to have called for a coalition Government. But what is a little bit unfair, as a politician I am talking now, is to try and bring in the Opposition to take all the unpleasant and unpopular measures that will have to be taken so that we all share that unpopularity. That, I think, Mr Speaker, is not leadership because if there had been leadership the leadership has got to be blamed, if there has been no leadership up to now it is because he is to blame as well because he has not led Gibraltar. Therefore I am afraid that my Hon Friend, Mr Haynes, was not all that much out of context. I do not think he was, Mr Speaker. He nearly made the Government resign when they said they were going to walk out. This is the first time that the Opposition is forcing a Government to walk out. I was very surprised to hear the Chief Minister say that. Anyway, Mr Speaker, we are not talking politics now. No, I am honest, those are the facts, what I have said are facts and any one who can refute them let him say so, they are facts. So it is not politics, Mr Speaker, it is the facts leading to the position of today. And Mr Joe Bossano, who is really beginning to learn politics very cleverly, he knows how to stay on the touchline when he should and when to join the game when he should, and even Mr Bossano has promised to join the game on this occasion when he hears what the measures are going to be, depending on the measures. How unpopular are the measures may be one of the considerations. But not us, Mr Speaker, I think the Opposition is prepared to face the situation because we have a responsibility, we are an alternative to Government and therefore we have got to demonstrate to Gibraltar that we are prepared to take whatever unpopular measures will have to be taken. Having said that, Mr Speaker, I say that the Government should also concentrate. When we say measures, as my Hon Friend Mr Haynes said, there are positive and there are negative ones. A very, very negative one is the one that we heard from the Minister for Public Works when he said: "I am not going to open the toilets at the beaches because people have already booked cars for Spain and therefore what are we going to do that for?" That is a very, very negative measure which is in fact pushing people into Spain. If that is the position of the Government, Mr Speaker, they are only themselves to blame if we find more and more people going over. We have said here on many occasions that something has got to be done to make the bars

and restaurants more attractive. We hear the Chief Minister in his statement saying that people go to Spain because restaurants are cheaper there. What has he done to try and make restaurants cheaper here? That is the question, and what is he going to do about it? I have been one of those people who have been bringing it to his notice time and time and time again so I am not trying to be wise after the event on this occasion, Mr Speaker. Yes, Mr Speaker, that is the situation, and there are many other things that can be done to try and attract people to remain in Gibraltar. Equally, I think that one may have to take serious measures. We all know that perhaps the money spent on leisure in Spain is perhaps the biggest drain but we also know that there are a lot of items that are now beginning to come into Spain which is going to affect and is already affecting a number of traders in Gibraltar. And because traders are not like the Government which can just keep things going by adding taxes, they have either to make the place attractive and buy and sell or they are finished. Remember that some traders perhaps have monopolies and they can abuse consumers. But remember that there are many other traders here who are in full competition with other traders in Gibraltar and I can tell you, I am in business. The competition in Gibraltar is very, very severe and that competition in itself will bring the prices down to the level that it is possible in Gibraltar. I know that you compare certain articles between Gibraltar and Spain but if you take into account the amount of money that is paid on freight, on packing, on handling in England, on handling in Gibraltar, on the time that you have to have the stuff in your storehouse and the money invested at a very high interest, and the high rates, and the high rents, and the high wages that we want to maintain. And this is in fact my next point, I am glad you reminded me of that, on the high wages. Mr Speaker, when you realise all that then you find that whether we like it or not if we want to maintain the standards that we have in Gibraltar because that is the only way that we can pay high wages, through the margins that you get out of sales, if we want to maintain that standard which is higher than the other side, then people must be made to understand that all is not just buying things a little cheaper. Economics is much more complex than all that. But the people have not been told and it is very, very bad to call them all sorts of things when they do not even know what they are doing because the thing has not been explained. I think the Chief Minister was very wrong there. Mr Speaker, another measure that the Government must take is the process of informing the public and doing that by every possible means. Nothing has been done in that respect. A lot has got to be done in that respect. That may mean Government having to spend a bit of money in that educational process but that money is going to be money very, very well spent and I suggest to the Government that they start doing that immediately. Mr Speaker, as I am saying this the Government if they had had any imagination would have been able to come and say it here but they have lacked completely

imagination. I am not a Jeremiah so the Hon Minister for Public Works may count me out of that. I have tremendous faith in that the people of Gibraltar will come out of this, of course they will. I have tremendous faith that the Government, with an Opposition in Gibraltar, as we have always been able to do however critical we may have been of each other, at the end of the day we have not quarrelled, we have been able to come tops, Gibraltar has succeeded so far and Gibraltar is going to carry on succeeding. But I hope that the Government is not feeling the way that the Hon Mr Featherstone is because if they have lost the battle even before they have started I suggest that they give up and that they allow somebody else to take over. I am not a Jeremiah nor I believe are the Members on this side of the House, I do not know about Mr Joe Bossano but I suppose I can include him in that. Now, Mr Speaker, coming to the people themselves. They, Mr Speaker, those who go over, are as British as those who are here speaking today and they are as Gibraltarians as we are. They have been subjected for many years to a conditioning that psychologically few people in the world would have been able to sustain and suddenly they have been given the treatment that any psychologist would tell you what it would do, they have opened the gates, after they had been closed for years they have opened the gates. What do you expect people to do? Of course they go out, of course they go across, particularly when they are not told 'don't go'. The Chief Minister said he was very pleased to say how well we got on. Of course, the whole idea is that we should go so that the process of the Lisbon Agreement would carry on and therefore the Spaniards would see that this was going to work and open the gates completely. In fact, maybe the Spaniards have made a big mistake and they do not know it yet because I think they have made a big mistake in the same way as they made a mistake in 1963 and 1964 when they thought that if they stopped the people of Gibraltar going into Spain we would give in. They have made the same mistake, they see us flocking over there and they believe they have got us. The trouble is that some of the people here are beginning to think so as well, that is the danger not what they think, what we think is the danger. I do not believe that will happen. I think they appreciate the British values much more than all that. But if they can have a pleasant time, why not? We have lots of people here in Gibraltar who are able to get out very often, I am one of them.

HON H J ZAMMITT:

You are never here.

HON MAJOR R J FELIZA:

Well, I am here. Perhaps if I may say so, that Minister is probably doing better than me. He is probably spending more time in England than I am at the expense of the Gibraltar Government. I am afraid that the last person who can speak

in that respect is the person who has just spoken. Not that I think he is wrong. I have always said that the Minister for Tourism should be at the counter and should be there and I am glad to see that he is getting a hint from me and he is doing what I have told him. In fact, when I come here I see lots of things that go wrong which I can tell you, the British flag over there which was a disgrace and it is thanks to me that it was dropped down; a filthy place down at Jumper's Bastion which thanks to me has been cleaned. Mr Speaker, I may be here for a short time but the short time is very productive, it is not quantity, Mr Speaker, it is quality that counts. To speak about a referendum and that if the people vote in favour but do not take into consideration the economic side is not really being British, that is total nonsense. In England today, if you go outside British Leyland where there has been a lot of unemployment and whose livelihood depends on producing British cars, I guarantee you, Mr Speaker, that you see lots and lots of Japanese cars parked outside of the workers who go into British Leyland because it is human nature to act that way. Britain has got a lot of unemployment but the number of people who buy foreign cars in proportion is much more than British cars. The number of people who buy goods that are not British is much greater than those who buy British, Mr Speaker. That does not mean that they have got no allegiance to Britain. Of course, they have allegiance to Britain the same as the Gibraltarians who go across the border have allegiance to Gibraltar. It is a lot of nonsense, but very mistaken nonsense which if taken seriously by people in the UK is going to have very serious repercussions. He talks about the Gibraltar Group. No doubt about it; the British/Gibraltar Group never thought of that but when they read this they will think about it now. I think that in that respect the Chief Minister has done a great disservice to Gibraltar by putting that in the statement. I am sorry, Mr Speaker, that he is not here to listen to me but this is the way I feel and this is the way I say it. I think that my Hon Friend has moved a very good and timely motion to the House something that I hope will urge the Government to do something after three months of inertia and that it will bring about, I hope the Government has the courage to do it themselves by getting all Members of the Opposition in to produce a policy to overcome the difficulties that will give the confidence to the Gibraltarians that we can survive and also I think persuade those who because of circumstances have had in the past to go over there and perhaps get some enjoyment out of life.

HON A J CANEPA:

Mr Speaker, I think in many respects for me, personally, this debate constitutes what I regard in many respects as being a rather sad day for Gibraltar. I think that we are seeing in the House this afternoon reflected many of the divisions that exist within the community and the different

attitudes that there are with regard to the problem that has now been posed by the partial opening of the frontier. I think the divisions, if they are mirrored correctly here, they are perhaps even greater than what I had thought they had been. And here I do not think I am referring so much to the Hon Mr Bossano because as usual he kept his contribution to a fairly logical basis, at least according to his lights, and there was no question of any personal considerations coming into the picture at all. The Hon Mr Loddó in his intervention spoke about party barriers having broken down. I hope that having heard Major Peliza, I hope that he realises that he is mistaken.

HON A T LODDO:

If the Hon Member will give way. Mr Speaker, what I said was that people when they are addressing us they were addressing us as leaders collectively and they had broken down the barriers. For them, the problem was so big, that they could only think of the Members of this House collectively, as leaders, not that the party barriers had been broken down by the parties themselves.

HON A J GANEPÀ:

If those same people were present here this afternoon and saw how we are conducting ourselves I wonder what they would think about their leaders. If such party barriers have broken down certainly personal invectives in this House has not. I thought, Mr Speaker, that the statement of the Chief Minister followed by the debate on the motion of the Hon Leader of the Opposition, would have led to a process of consultation which might have meant the beginning of a launching pad where the people of Gibraltar as a whole, through the leadership provided in this House, would have been able to arrive at a consensus as to how to face, as to how to deal with the problems that we are now faced with with respect to the partial opening of the frontier. But in my view the indications from what I have heard here today are that that process of consultation will fail. And certainly if Major Peliza and the Hon Mr Haynes have anything to do with that process of consultation I doubt whether they will even get off the ground. I am not inclined to give way now to Major Peliza having regard to the fact that during the last two meetings of the House I asked him more than once to give way and he did not do so. To exonerate out of hand the people who are causing the leakage is irresponsible, Mr Speaker. At no stage did any political leader in Gibraltar, and certainly not the Chief Minister in the early days both and before the 15th of December, urge the people to go to Spain. The message from the Chief Minister was not one to the people of Gibraltar, go, eat, drink and be merry in Spain. It was a matter that had to be left to individuals. To say that the Chief Minister is to blame when the Chief Minister gave an indication of warning as early as the 1st of January when we

started to see a pattern emerging in his New Year's message. He said then that we had to look to the general good of the economy and the need to ensure that we did not undermine it by our own acts because already the signs were there as to how people were behaving in what the Chief Minister did not call but I am going to call indecent haste and there is no doubt in my mind that there was that. He went on to say that Moran led the Chief Minister up the garden path. He might have done that to Mr Fym when they met on the 10th December and indicated that there was going to be a further meeting with a view to an early implementation of the Lisbon Agreement. Surely, it was the British Government that was led up the garden path, it was the Foreign Office that was led up the garden path and fooled, as usual, by the Spaniards. I think there is a view, even now, perhaps, in the Foreign Office that the Spaniards have to be appeased and that view may be held at very high levels of the Foreign Office. And even now I wonder whether they have seen through the Spaniards. Major Peliza's attitude seems to be that of a trader, the customer is always right, the people are always right. But a previous generation of Gibraltarians, going on now for nearly thirty years, behaved differently. Between 1954 and 1967, in the face of restrictions imposed following the visit to Gibraltar of Her Majesty the Queen, people voluntarily boycotted Spain. But perhaps in those days it was easier because it was a case mainly of boycotting La Linea, San Roque and Algeciras, and now it is the case of not being able to sample the delights of skiing. I think, Mr Speaker, that the time has come, and it came yesterday, when there had to be plain speaking from political leaders in Gibraltar. And if the people do not like it, before the year is out and before twelve months are out, if they do not like that plain speaking they will have an opportunity to indicate that no doubt by the manner in which they vote. But that in order to attack the Chief Minister in the personal manner in which two Hon Members have done so this afternoon, one Hon Member who has been the only other Chief Minister of Gibraltar should out of hand exonerate the people and give the impression that they can carry on regardless as they have done up to now, is I think the acme of irresponsibility. I have not heard him unequivocally appeal to the people to think twice about the harm that they are doing. I think, Mr Speaker, that we have a serious problem in Gibraltar. The Hon the Leader of the Opposition said that perhaps the people do not see the problem. They were speaking some months ago, in the last year or so, on more than one occasion here in the House how the people did not seem to understand the problem about the Dockyard because the only ones that seemed to care were the ones whose jobs were directly affected and the others in the public sector or in the private sector did not seem to realise the domino effect that there was going to be as a result of the closure of the Dockyard and that, therefore, because if today, three months after the opening of the border, people were spending their money in Spain, a year ago we were saying that they were spending their money, not on one video, but on two videos because husband and wife do not

agree on what they would like to watch, so they buy two videos. We were saying that, that there was that sort of spending because people did not seem to appreciate, people had become materialistic and they did not seem to understand the problems that were going to be posed by the closure of the Dockyard. I think there is a limit about the extent to which we can exonerate people. Sometimes people do not want to see it, it is unpleasant to have certain facts put before them and on this occasion perhaps a lot of people do see the consequences of their actions but they have taken the attitude that they have been done in for thirteen years and they are getting their own backs on traders, and there is some of that going on. I have had it put to me by people in the business, grocers, that there are people purchasing in Spain milk, tinned condensed milk, which is more expensive in Spain and is of inferior quality to that being sold in Gibraltar. Why are they doing that? I can only understand that it must be part of this euphoria of buying at el Continente or in Eco Mateo, or wherever it is that they shop in La Linea. They have been caught up in this feeling of spending in Spain and therefore they are going to keep on buying regardless of whether the goods can be purchased and in any case, en passant, they are having a go at the local traders. There is some of that, that is going on as well. I felt yesterday that people were not going to take much notice of the appeal, or the exhortation of the Chief Minister. After this afternoon, after this evening, I am more convinced that that is the case because the story will get out that the Hon Members of the House are not in agreement as to how we should go about tackling this matter. And if Hon Members are not in agreement, how do you expect the people to behave? Therefore the people will rationalise and they will continue to behave in the same way for whatever reason each of them can adduce to justify their actions. Mr Speaker, prior to yesterday one message that was coming through was that in some quarters people were expecting the Government to give a lead. One heard that if the Government asked them not to go or if the Government asked them not to spend they would not, and our attitude then perhaps was: "Well, we cannot be the guardians of the people's conscience". But I think that now the lead has been given and if no notice is taken and measures which are not going to be easy to think of, effective measures, or to introduce effectively, let me warn Hon Members, if no notice is taken and there are serious economic problems, jobs are lost, the Government has to increase taxation and the people's standard of living starts to drop, at least we will be able to turn round and say: "We warned you, we asked you, three months later, after we knew that the Lisbon Agreement was not going to be implemented, once the pattern started to be established we warned you, well, what do you expect?" I do not think that there is the slightest chance of any reaction and I am prepared to postpone judgement for about a month or so because I realise, and the Hon Mr Featherstone is right, I realise that many people have made arrangements to spend the Easter weekend in Spain and I doubt whether people are now going to cancel their arrangements just because the

Chief Minister made the statement yesterday. I am prepared to suspend judgement for a month or so and then we shall see how the figures begin to compare with the figures that we have had of crossings in the last three months. I think it is going to be very difficult to devise measures to protect the economy that will be effective or watertight. For instance, should such measures be applied at the land frontier only and do we continue to allow people as they have been doing for many years, perhaps the privileged few, or not so few, but the privileged, certainly, who own yachts, or who have access to yachts and who have been able to go across to Spain for many years and spend a lot of money there. What can you do about that? What restrictions can you place on the freedom of movement of such people? And what is the relative damage to the economy that is done by someone purchasing a small amount of goods in Spain compared to someone investing in the Spanish economy £15,000 or £20,000 in purchasing a residence, how do we measure the two? And what action can be taken to stop that? Nothing. So because there are these problems, the divisions, the different attitudes that are going to be evinced, that are going to become evident in people, are going to lead to a great deal of debate and a great deal of controversy. The measures will be unpopular. It will be difficult to get a consensus amongst people and if we do not arrive at one ourselves, the prospects are even greater with respect to the general public. We saw how at the Annual General Meeting of the Chamber of Commerce traders themselves could not agree to a voluntary boycott because the traders were not prepared to sacrifice the right that they consider that they had, either as traders if they wanted to do business in Spain, or as consumers, or tourists, if they wanted to visit Spain either to purchase goods there or for leisure. There were deep divisions among them and there you had traders, the ones who are being more directly affected at the moment than anybody else. And I think, therefore, in conclusion, Mr Speaker, my message to the House must be that we cannot behave like Nero, while Rome burns we cannot be playing the lyre. We cannot be quarrelling amongst ourselves in the manner in which we have been doing this afternoon in the House. If we do, people I do not think will forgive us and if the present do perhaps a future generation might not if they find that the security of Gibraltar has been undermined and the identity of the people has been brought into jeopardy. I cannot help thinking that it is wrong when we are debating on a serious matter such as this one for Members to slate each other in the manner that one has seen here. All I can say to the young man who has just left the House is that all young people, if they live long enough, become old men and in years to come, if he is still a Member of the House, there may be some other young man here who might refer to him as an old man in the disgraceful manner in which he described the Chief Minister. My complaint is not about what he quoted from Hansard, that is fair comment, that was perfectly alright, my complaint is about these other remarks which I think have done a disservice to Gibraltar. I would have hoped that we would have been able

to sink our differences, would have been able to start working together for the general good of Gibraltar and I would appeal to the majority of the Hon Members opposite, the sincerity of none of whom do I doubt, that we should try to sink our differences, personal or political, and let us at least ourselves start working together. If we can work together there is a chance, whoever wins the next elections in Gibraltar that may not matter, whoever wins the next elections, there is a chance that we can save and look after the interests of Gibraltar but if we carry on the way we are, Mr Speaker, I think the people outside will point the finger at us and the blame will be on the whole lot of us. Thank you, Mr Speaker.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, I intend to reply very shortly to this debate, you will be pleased to hear. Let me say straightaway that in a motion of this nature, when a situation is serious, there is bound to be a certain amount of recrimination, there is bound to be a certain amount of criticism and I think Hon Members are entitled to criticise and I think the question of criticism works two ways. Sometimes we are at the receiving end, sometimes the Government is at the receiving end. Today it is true, the Government has been largely at the receiving end and I cannot grudge Hon Members looking at the developments since the announcement of the partial opening of the frontier and forming a view that there was a serious misjudgement on the part of the Government side. Having said that and having said also that in my view the people of Gibraltar were not sufficiently warned at the time of the opening of the frontier of the manner of opening and its possible consequences. And because they were not warned we are now faced possibly with a more serious problem of public relations than we might otherwise have had. Having said that, I would certainly echo what the Hon Minister for Economic Development has said. I would certainly echo his sentiments that it is important pro bono publico, it is important that the Government and the Opposition should agree and we are doing that today, in a rather disjointed manner, perhaps, Mr Speaker, but we are doing that today, that we should agree that measures are necessary and that measures have to be taken. I think we should also recognise the problems involved in the taking of any measures. I think, actually, the tragedy of today, is really the dissenting voice of the Hon Mr Bossano and I think my Hon and Gallant Friend, Major Peliza, said the right thing when he said that he tends to stay on the touchline. The Hon Mr Bossano is clever enough to realise that any measures that are taken, however mild, are going to affect or possibly could affect, primarily, the

average man in the street, the average working man that goes to Spain and who has a feeling of bitterness, possibly, about the way the traders have dealt with him in the last thirteen years and forgetting conveniently, of course, forgetting that in fact the standard of living in Gibraltar has been extremely high during the last three years due to the influx of money into the economy and the money not going out. But he knows that whatever measures we take will be unpopular and therefore he prefers to stay on the touchline and use what I frankly consider, one might regard them as logical arguments but really, quite ridiculous ones. Of course we all know that the Spanish Government knows the effect of the partial opening of the frontier will have on Gibraltar, of course we all know that, but what we cannot do is to continue his party policy which is, it is up to the Spaniards to do what they like in the frontier. It is up to them to decide when they open, it is up to them to decide what they do, because as in this particular instance, if we accept that principle that it does not matter to us: "I am alright Jack, if you want to open, open, if you do not want to open, do not open, if you want to let people through, let them through, if you do not want to let them through, do not let them through", if we follow the logic of that conclusion and say we do not mind and so forth, it is crazy because it does affect us and we have to mind and they have a unilateral act and they have affected us, they have affected the economy of Gibraltar. A million pounds going into Spain, he says, does not matter to Spain. Well, I would respectfully disagree with the Hon Mr Bossano because a lot of that million has been spent in La Linea and it has mattered a great deal to La Linea, and that town is having a little boom of its own at the moment. And if measures were taken, and I am not suggesting they should, but if measures were taken that could affect the economy of that town, it could well be that the socialists who made this partial opening one of their reasons, really, was to help their fellow socialists in La Linea, might have thought twice. The Hon Mr Bossano cannot have it both ways. The Lisbon Agreement was intended to result in the lifting of the restrictions and that is why a Spanish customs was built in La Linea and for him to say that if the restrictions are lifted and there are normal customs relations a man who buys a video will still have to pay duty and therefore, it would not be worth his while, it is perfectly true, that is perfectly true but it does not follow that way, things do not occur that way. I can tell the Hon Member that the biggest buyers in London in the shops are Spaniards. They buy in great quantities and is he telling me that the customs in Spain make them pay duty in everything that they take through, perhaps they do, I do not know, but it must still be cheaper for them, it must still be worth their while when they do it. If that frontier is a normal frontier and that customs is a normal Spanish customs, I do not agree with the economists who say that we are going to have a rough time, I think Gibraltar will have boom conditions precisely because there are only 30,000 of us who can go that way and there are over

40 million who can come this way in a normal frontier situation. And that is why I think that the Hon Member is very misguided although possibly logical, is misguided in what he says and the way he acts and I suspect that one of the reasons, the main reason for it is because he knows that measures that may have to be taken are going to be unpopular and we have put this motion, Mr Speaker, and I hope the Government will accept what I say in this, we have put this motion in to show that we from the DPBG are prepared to take measures to protect the wellbeing of Gibraltar, of the economy of Gibraltar, whether they are popular or not and I fear, hearing the Hon Mr Bossano, I fear that it may well be that when measures are discussed, and I am prepared to take part in these discussions, the Hon Mr Bossano will look at them not from the point of view of the economic wellbeing of Gibraltar but from other considerations of popularity and so forth and I think, and I would agree with what has been said by Members on both sides of the House, that the economy is under attack and we have to close ranks and we have to put our thinking caps on and see that measures are implemented to protect the wellbeing of the economy and we must take the people of Gibraltar into our confidence and explain the situation when the time comes in a manner that they can understand and appreciate and therefore, Mr Speaker, let me assure the Hon Minister for Economic Development that all is not lost with the debate that has taken place because the sort of debate and the sort of comments that have been made in this House are made outside and are the sort of comments we are also going to meet outside. People do have divided views. I was stopped in the street today and there was criticism of certain gentlemen, certain traders who were telling people to spend their money here and they were spending it there, as has been mentioned in the House, and then other problems and other comments. I think we are going to meet with a lot of disagreement, Mr Speaker, but one thing I am convinced of that the measures will have to be taken and measures have to be taken to protect ourselves, our way of life and our future. Thank you, Mr Speaker.

Mr Speaker then put the question in the terms of the Hon P J Isola's motion and on a vote being taken the following Hon 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 A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member was absent from the Chamber:

The Hon J Bossano

The motion was accordingly passed.

ADJOURNMENT

HON A J CANEPA:

Mr Speaker, I beg to move that this House should now adjourn for the Budget session to Monday 18th April at 10.30 am.

MR SPEAKER:

I will then propose the question which is that this House do now adjourn to Monday 18th April, 1983.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Monday 18th April, 1983, at 10.30 am.

The adjournment of the House to Monday 18th April, 1983, at 10.30 am was taken at 8.05 pm on Thursday the 24th March, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

23 March 1983

Vol. II Budget

MONDAY THE 18TH APRIL, 1983

The House resumed at 10.45 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and
Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammit - Minister for Tourism and Sport
The Hon 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 R J Wallace CMG, OBE - Financial and Development
Secretary
The Hon I Abetasis

OPPOSITION:

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

DOCUMENTS LAID

The Hon the Minister for Tourism and Sport moved under Standing
Order 7(3) to enable him to lay on the table the following
document:

The 1982 Hotel Occupancy and Air Traffic Surveys
Report.

Ordered to lie.

The Hon the Minister for Education and Labour and Social
Security moved under Standing Order 7(3) to enable him to lay
on the table the following document:

The October 1982 Employment Survey Report.

Ordered to lie.

The Hon the Financial and Development Secretary moved under -
Standing Order 7(3) to enable him to lay on the table the
following documents:

- (1) The Accounts of the Government of Gibraltar for the year
ended 31st March, 1982, together with the Report of the
Principal Auditor thereon.
- (2) The Draft Estimates of Revenue and Expenditure for
1983/84.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move the suspension of Standing
Orders Nos. 29 and 30 in respect of the 1983/84 Appropriation
Ordinance, 1983.

Mr Speaker then put the question which was resolved in the
affirmative and Standing Orders Nos. 29 and 30 were accordingly
suspended.

THE APPROPRIATION (1983/84) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to
appropriate an amount not exceeding £51,090,575 to the service
of the year ending with the 31st day of March, 1984, 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.

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move the suspension of Standing
Orders Nos. 29 and 32B(3) in respect of the Finance Ordinance,
1983. Sir, Standing Order 29 is of course the Order which

provides that no Bill should be read a first time until it has been published in the Gazette. Standing Order 32B(3) provides that the Assembly shall not proceed on the Finance Bill before the Appropriation Bill has been read for a third time. For some time now I have felt that the fact that we debate the Appropriation Bill in advance of the Finance Bill and knowing what the Government's fiscal proposals are for the coming financial year means that the House is debating under a great disability and I think to be able to present the Budget and debate it as a whole would enable the House to consider it and the Government's economic measures in very much better terms and would lead to a very much better general debate and informed debate and it is for that reason, Sir, that I am moving the suspension of Standing Order 32B(3) for the purposes of this meeting. If this measure proves to be successful then the House may wish to consider whether Standing Orders should in due course be amended. I beg to move.

Mr Speaker then put the question which was resolved in the affirmative and Standing Orders Nos. 29 and 32B(3) were accordingly suspended.

THE FINANCE ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance (Chapter 75); the Income Tax Ordinance (Chapter 76); the Public Health Ordinance (Chapter 131) and the Development Aid Ordinance, 1981, and generally for the purposes of the financial policies of the Government, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move that the Bill be now read a second time.

As in previous years, I would like to start by tracing some of the dominant features of the international and UK economies which have a bearing on the course and performance of Gibraltar's economy.

Contrary to cautious expectations, the total output of the OECD countries fell in 1982. Investment remained seriously depressed largely because of persistent high real interest rates. The level of demand was low, resulting in an actual fall in the volume of world trade. The developing countries, faced with mounting short-term debt servicing problems and falling export demand for their products, were particularly hard hit.

Many economic commentators however expressed optimism that the world's recessionary problems were beginning to abate. This is largely a response to the marked reduction throughout last year in the rates of inflation in the OECD countries and the expectation of a continuing downward trend into 1983 and 1984. It is a view which is perhaps obsessively short-sighted. Falling inflation has been more of a reflection of the underlying depth of the world economic recession rather than the deliberate or direct effectiveness of policy initiatives. The scars of the recession remain. Unemployment in the major industrialised countries rose to thirty million or some 10% of the total labour force, with little or no prospect of an early reversal. The sharp fall in interest rates has been nominal - in real terms they are still high. The prospects for export-led growth are slim. Persisting problems over finance imply that effective demand for OECD exports will remain low. World trade may grow marginally, but most of the major industrial economies are likely to continue facing deficits on their current account balance, with the exception of the United States, Japan and West Germany. Exchange rate movements could therefore quickly revive inflationary pressures.

The only real comforting development has been the continued weakening in oil prices. This offers real prospects for a consolidated recovery and more confident expectations of lower inflation worldwide. This could lead to renewed buoyancy in world trade on which Britain's own hopes for recovery are pinned.

In the United Kingdom, lower inflation at home and abroad is encouragingly heralded as the springboard towards economic revival. Some modest improvement in output and real demand in 1983 seems assured. This should however be examined in perspective. Economic performance in 1982 presented a depressing background. Output was stagnant, with GDP some 5% below the 1979 pre-recession peak. Unemployment rose throughout the year, irregularly, but at a generally increasing rate. The total of unemployed persons peaked at over 3.1 million, a rate of 14.5%. In 1982 unemployment rates for individual industries have with the exception of mining and utilities, more than doubled those of 1979. Construction and metal manufacturing, for example, experienced unemployment rates in 1982 of 27% and 20% respectively, indicating the severity of the recession.

The decline in interest rates paralleled the fall in inflation. Real rates therefore remained high and monetary conditions uncomfortably contractionary. Although personal real incomes fell, consumers' expenditure rose. The latter was mainly accounted for by lower savings and rising credit. Total fixed investment increased by some 3%, reversing the trend in 1981 and 1982. These figures mask wide divergencies among sectors. Most important was the continued decline in manufacturing investment, a drop of around 10%, representing the lowest level for nearly twenty years. Some recovery was evident in private housing. Of particular interest was the fall in the volume of public investment which at 5% of GDP now accounts for almost half its share in 1974.

The unexpectedly sharp fall in inflation has perhaps been the only creditable trend. Inflation fell from 12% at the beginning of the year to 5½% by the end. Indeed, UK inflation fell faster than in most other industrialised economies during 1982. The fall in oil prices can only reinforce this trend. However, the lower exchange rate, particularly against major currencies and notably the US dollar, is bound to check any further significant progress on the inflation front.

For 1983, the consensus of forecasts point to a gradual improvement in the UK's economic performance. Lower costs and prices, pay moderation, lower interest rates and reviving business confidence are the current signs of optimism. These have been modestly uplifted by the mild reflationary boost given in last month's budget.

There are obviously certain aspects, directly or indirectly concerned with all these developments, both internationally and in the UK, which will eventually have some bearing on the course of the Gibraltar economy. The degree of their effect may appear limited and remote to some, Mr Speaker. Sooner or later, the impact can be very significant as we have seen from the effects of sharp increases in oil prices and hence our electricity costs, or of interest rates on our debt-servicing charges, or the generality of the United Kingdom recession and its damaging consequences on our tourist industry. More significantly we see as a result of the United Kingdom Government's public expenditure cuts the threat posed to our whole economy by Dockyard closure.

Before I move into the key economic issues for Gibraltar which clearly rest on the question of the Dockyard, the partial opening of the frontier and economic development generally, I propose as usual to comment on the performance of the economy in 1982.

By the end of last year, price inflation in Gibraltar fell to an annual rate of 5.5%, the lowest level since July, 1969. This was largely due to the continued slow-down in food prices; the food index rose by 3% over the year, representing a record low since 1970.

Despite the fall in inflation, it is estimated that the level of real disposable incomes for an average Gibraltar family fell in 1982 by around 3%. This reflected mainly the neutral stance on personal taxation at last year's budget and relatively lower pay settlements in the private sector. Overall average weekly earnings for men rose by just over 5%, from £110 in October 1981 to £116 in October 1982, reflecting the 7% July Pay Award. In the official sector, earnings stood at £123 weekly. Basic wages rose in line with parity but overtime earnings fluctuated during the year, rising to an abnormal peak of some £37 a week in April, 1982. This was mainly related to substantial overtime working on RFA refits in the Dockyard and works in preparation for the second abortive frontier opening. By October, 1982, overtime earnings fell but still remained high at around £25 weekly. In the private

sector, earnings rose by some 3% overall to an average level of £101 weekly. Average weekly earnings in the official sector continued to be higher than those in the private sector, with the differential established since parity in 1978 widening slightly to some 20%.

Among monthly-paid male employees, average earnings rose to £746 in the official sector and to £575 in the private sector. The increase in earnings in both sectors averaged at around 10%, thus preserving the 30% differential of previous years. As I explained last year, Mr Speaker, this disturbing disparity largely reflects the disproportionate distribution between the two sectors of professional and technical employees.

The October 1982 Employment Survey reveals no significant change in the overall level of employment. Survey response produces certain fluctuations in the individual industry figures and hence tends to disguise the true picture. Unfortunately, for example, there has been a clear predictable 22% fall in the private sector construction industry; from over 614 in 1981 to 476 in October, 1982. Some minor, but nonetheless disturbing, drops can be gauged in other industries. In the private sector the position is indeed particularly fluid and the threat of further redundancies in those sectors easily shaken by the weakening course of the economy persists. Under any circumstances, unemployment must be viewed seriously; the moreso in a small economy or society. It is of even greater concern in the wider context of the likely effects of any redundancies which might arise on the closure of the Naval Dockyard. Furthermore, the effects of the discriminatory frontier opening cannot be discarded.

The progressive rise in the number unemployed continued; the figures have more than trebled since 1979. In December last year there were a total of 475 persons unemployed compared to 373 for the same month in 1981. The latest data for February 1983 of 444 unemployed is nearly double the 1982 figure. Some 75% of the unemployed are Gibraltarians, with juveniles accounting for about 20% of the total. This deteriorating position is largely the direct result of the absence of apprenticeships in the Dockyard, the dramatic slowdown in development activity and the generally depressed state of the private sector consequent on disappointing developments at the frontier. The renewed impetus in public capital investment will largely rest on important infrastructural projects such as new distillation plant and additional electricity plant, currently awaiting ODA approval, and to a lesser degree on limited local funding of social projects, notably housing. The impact on employment over the next two years should prove to be healthy but is unlikely to be sufficient significantly to reverse the unemployment problem in the longer term. This does not augur well for an economy facing closure of the Dockyard and the net negative impact of the partial frontier opening.

I have already pinpointed certain aspects of the private sector economy which underline the effects of recessionary pressures. These are also evident from the 1982 trade figures. Imports rose in value by some 4% to a total of £68.4 million, indicating a marginal decrease in volume terms. Non-fuel imports held their 1981 level, rising over the year in line with inflation to a total of £46.7 million. The pattern of imports revealed fairly predictable changes. Imports of building materials fell by some £1.3m or 35%. Clothing and furniture imports continued to fall, by 8% and 18% respectively. Household durable goods generally showed no significant increases. On the other hand, certain luxury goods rose substantially - perfumery (+52%), carpets (41%), jewellery (34%). After last year's drop, motor vehicle imports, including spares, once again climbed up by 11% to a figure of £3.1m. The number of private motor cars imported rose to 998 and of motor cycles to 295; the latter more than double the number imported in 1981.

Exports for 1982 stood at £23.8m compared with £25.6m in 1981. The 7% drop was largely accounted for by a £1.7m decrease in re-exports of petroleum and petroleum products. This relates mainly to the 6% fall in the number of ships calling for bunkers.

The balance on visible trade in 1982 showed a deficit of £45m, compared with £40m in 1981. It is difficult to estimate whether, in balance of payment terms, this visible trade gap was more than matched by Gibraltar's invisible earnings. In other years I have declared confidently that our invisible earnings, notably expenditure generated by defence, tourism, the port and capital aid, have left us in a modest surplus position. I do not have the precise answer for 1982, but for the first time I consider it to have been very close, either way.

1982 was once again a bad year for the tourist industry. I said last year that given the recessionary outlook for the UK economy, our main tourist market, any significant improvement in tourist prospects for 1982 necessarily hinged on the opportunities flowing from an open frontier situation. Hopes for a quick and healthy reversal of the industry's prospects with a normal open frontier were dashed on three occasions throughout the year. The Spanish restrictive frontier conditions, particularly their ban on foreign tourists, is a frustrating blow for those in the industry who have resourcefully withstood difficult market conditions since the frontier closed in 1969. The only beneficiaries have been the travel agencies who handle holiday arrangements for Gibraltar residents seeking to visit Spain.

The number of visitor arrivals fell for the third successive year to a total of £127,000; a 4% drop over 1981 and the lowest figure recorded since 1978. Air and sea arrivals fell by 3% and 4% respectively. For hotels, the indicators reveal a slight improvement over 1981 which nonetheless offers no real cause for comfort. Total hotel arrivals rose by 4%.

Tourist arrivals however fell by 6%, to the lowest level since 1972. Guest-nights sold and sleeper occupancy rates were some 10% higher over the low 1981 figures, because of an improved average length of stay.

Tourist expenditure in 1982 is estimated at £11m, the same figure as in 1981, and hence a 5% drop in real terms. Yachting traffic, one of the highest per capita earners, fortunately rose from 4281 in 1981 to 4646 in 1982 (+8.5%).

Load factors on air arrivals from UK averaged around 80%, showing once again little change compared to 1980 and 1981. Indeed, the load factors for the first four months of the year reached almost record levels, peaking at 96% during March. The corresponding figures for the last quarter were however lower than the long-term average, but remained at a high level of around 70%. Charter traffic retained a remarkable 90% load factor over the year. The number of seats offered on charter flights however fell by 13%. Fortunately, this was more than compensated for by the 22% increase in the numbers offered on scheduled services.

Tourist prospects for 1983 will remain bleak unless there is improved response from the traditional UK market or a new flow secured via the frontier. At present the signs are far from encouraging. Two of Gibraltar's main hotels are reportedly up for sale. The Air Europe bid for a licence on the London/Gibraltar route was rejected by the Civil Aviation Authority. Whatever the merits of the arguments put forward by the individual airlines concerned, it is clear that unless there is increased seat availability on the air route to Gibraltar, the hotel industry as a whole will continue to face a major constraint in a small competitive market.

For the commercial port, 1982 was the second successive year of declining shipping activity. The number of ships calling at Gibraltar totalled 2704, marginally lower than in 1981. Total tonnage entering the port fell by 2.5 million tons to 15.2 million tons (-14%). Calls by deep-sea vessels dropped 8.5% to a total of 1402. The number of containers landed rose from 3227 in 1981 to 3307 in 1982, a level which appears to be settling as the broad maximum.

Major development at the port will concentrate this year on the start of the construction of a causeway to replace the Viaduct Bridge. Apart from obvious technical and engineering considerations, progress on this project will depend on the outcome of continuing discussions with HMG on the terms of transfer of the North Mole to the Gibraltar Government. For the future, development is geared to further reclamation. This will depend on the availability of aid funds after the ODA's response to project applications submitted for our infrastructural needs. General improvements in the port area will run parallel to this outcome, as well as the priorities accorded to those development projects to be funded from limited local resources.

The Government has improved the legal and administrative frame work for the development of Gibraltar as a Finance Centre. The Banking Bill has been enacted. Administrative resources are now concentrated as a separate unit. However there is still much to be done both in terms of legislation and improved administrative procedures. Recent failures have highlighted this, particularly in the control and supervision of building societies and insurance companies. More adequate safeguards are essential to protect depositors and policy-holders. EEC Directives covering Finance Centre activities apply to Gibraltar. If we wish to preserve, improve and promote our reputation as an offshore base we must ensure that we meet the standards set by the directives. We must also ensure that bureaucratic control is kept to the minimum consonant with Community requirements and Gibraltar's administrative machinery. This could mean that we shall need to approach the Community for relaxations in certain areas of their requirements. We have been able to achieve this balance in the Banking Ordinance and I am hopeful that we can achieve the same aim in insurance.

Commercial bank activities in Gibraltar continued to grow. In 1982, deposits rose by £14m (+15%). Total loans and advances fell by around £1m (-2.5%), reversing the pattern of past years. This may have reflected growing uncertainty and depressed levels of business activity, at the tail end of a period of persistently high lending rates. Deposits held at the Post Office Savings Bank at the end of March, 1983, remained at around the £1.8m level where it has stood since 1979. Deposits with local building societies rose following the introduction at last year's budget of the £200 tax exemption limit on interest paid - the increase in deposits was however not particularly encouraging. Personal savings deposited with banks have shown a very sharp increase since the first announcement of the Dockyard closure in 1981.

Last year, Mr Speaker, I explained that Gibraltar's economy was in danger of being forced into a recessionary path, different and more serious than that mapped out by the inevitable effects of the recession abroad. I referred specifically to the impact of Dockyard closure. I expressed confidence in overcoming the difficulties. Today, I cannot hide my deep concern, on the facts available, for the economic stability of the territory as the closure of the Naval Dockyard approaches and as the broader effects of the discriminatory frontier opening effectively prevent the development of opportunities for diversification and new revenue growth.

The likely impact of Dockyard closure represents the most serious economic and social problem for everyone in Gibraltar. Her Majesty's Government has repeatedly reaffirmed its intention to close the Dockyard by the end of the year. In a purely financial and economic context, I must point to the undertaking given in the Defence White Paper issued in June 1981 to provide an alternative means for sustaining the Gibraltar economy. As the diversification study confirmed, this is a difficult undertaking to honour in a defence-based economy, with scarce human resources and severe constraints on

land availability and use. Whatever might be thought and said in certain quarters, officials of the Gibraltar Government have devoted much time and effort to study the real alternatives for the future. This is the responsibility of Government. It is a duty to the men and women directly threatened by redundancy and an uncertain future. The subject has also rightly been the subject of searching questions and lengthy debate in this House.

The long process of study and discussions on the possibilities of Dockyard commercialisation should end next month with the completion of the project study. I am not going to pre-judge the outcome. But I am quite prepared to say at this stage that commercialisation alone will not fill the gap created in the economy by Dockyard closure. Furthermore I personally have yet to be satisfied that commercialisation will prove to be viable, and if it could be whether we have resolved how best viability can be achieved. It is not, Sir, a simple numbers game. The problems of unemployment for example, are likely to be more serious in structural terms than in size. The problem of land is not confined to the free handover of land and assets surplus to defence requirements in the Dockyard since these on their own are inadequate to close the gap which will be created in our economy. The Ministry of Defence will need to release other land and assets to give scope for diversification. The whole question has been the subject of vigorous and frank exchanges with Her Majesty's Government. From the Gibraltar Government's point of view, the Dockyard project study is proving to be an important means of testing in detail the proposals of, not merely the preferred operator, but also of the Ministry of Defence. This is the only way to arrive at a proper judgement.

The alternative to the Naval Dockyard, if closure proceeds, must offer good prospects for stable levels of income and employment; training and the development of skills, localisation of management and diversification within the economy. The alternative cannot be exclusively confined to the replacement activity in the yard itself. It extends to the development of existing and new activities through planning, enterprise and hard work. The speed with which these seemingly nebulous activities can develop, particularly in the private sector, will per force be affected by developments at the frontier.

The Government has constantly held the view that a fully open normal frontier is not necessarily the panacea for all Gibraltar's economic problems. On balance it could probably benefit the economy in the medium to longer-term, but it would require a radical readjustment in the pattern of trade and general economic activities.

Much attention has focussed on the pedestrian opening and the need to protect the economy. The first point to be grasped, Mr Speaker, is that the damage to the Gibraltar economy does not stem entirely from the leakage of Gibraltar expenditures in Spain. Part of the leakage takes the form of import substitution which benefits the economy, an obvious example is

fresh fruit and vegetables. The other more substantial leakage takes the form of recreational expenditure within Spain on a regular basis. Under normal frontier conditions on both sides it could be argued that this shift in spending would reflect a more normalised pattern of Gibraltar expenditures.

The restrictive Spanish measures prevent counter-balancing economic flows to Gibraltar. Moreover the draft Estimates of Revenue and Expenditure reflect the heavy cost of manning the land frontier some £750,000 with no clear increases in revenue.

Four months have elapsed since the opening. The total outflow is still estimated to be around 10% to 15% of consumer expenditure, or some £150,000 weekly on average. No significant falls in import duty collections have yet been observed. Total imports for January and February this year have increased by some 5% compared to the corresponding period last year but a time lag in the effects on imports is to be expected. It is still too early to measure any real trend. Developments at the frontier will continue to be closely monitored and measures, if and when necessary, implemented.

I would like to go on briefly now to another important area for the economy - the development programme. The Minister for Economic Development and Trade will be dealing with this in more detail. I would just like to inform Members that local financing will be met from the issue of tax-free debentures and commercial borrowing. The latest issue of debentures carried the added incentive of offering exemption from estate duty. To date, the first tranche of £1m has been almost fully subscribed, and a further tranche will become immediately available. Of the total £10m borrowing to be raised, nearly £6m will be taken up by cost increases on on-going projects. Just over £4m together with the £1.5m contribution from the recurrent budget will be channelled to new projects in the current programme.

I now turn to a review of the Government's finances starting with a brief comment on the out-turn for 1981/82.

When presenting the draft estimates last year, I stated that the Consolidated Fund Balance as at 31 March, 1982, was expected to be £10.65m; the actual balance on closing the accounts was £11.39m, and improvement of £0.74m. Total expenditure fell short of the revised estimate by some £0.47m and there was an improvement of £0.28m in the revenue yield.

The approved Estimates for 1982/83 envisaged a surplus for the year of £250,300; the revised estimated surplus is slightly higher at £297,800. Nevertheless, both revenue and expenditure are expected to exceed the original estimate by some £0.9m.

The increased revenue yields from Taxes on Income, Departmental Earnings and Reimbursements - the latter directly related to the increased expenditure on the Funded Services - are expected to exceed the estimate and more than offset the reduced yields of some 11% - £700,000 from import duties.

The principal increase in expenditure arises from additional budgetary contributions to the Funded Services. These are expected to total £2.3m, that is an increase of £0.6m. £0.5m of this amount will be required for the Potable Water Service Fund to meet an increase in the cost of importing water from Morocco and in repairs to the water catchments.

The projected Consolidated Fund Balance on 31 March, 1983, is £11.69m, an increase of £0.79m over the estimate in the Approved Estimates for 1982/83. Nevertheless, I must repeat what I said last year. This amount is eroded by the value of bills outstanding - estimates at £4m at 31 March, 1983, and by the £3m deficit in the Improvement and Development Fund. As indicated throughout the year the Government has met the initial outlay on locally funded capital projects by drawing on the Consolidated Fund rather than by borrowing.

The Draft 1983/84 Estimates now before the House reflect a projected deterioration in the Government's financial position during the course of the financial year. The small working surplus in the recurrent budget does not take into account a contribution of £1.5m to the Improvement and Development Fund and uncovered deficits of £2.3m in the Funded Services. The extent to which these deficits will be met by budgetary contributions or by increases in tariffs and rents will be disclosed later in this speech.

Recurrent revenue in 1983/84 is expected to yield less than in 1982/83. The main reduction is expected in income tax because of the intended Dockyard closure later this year. Although closure of the Dockyard is still being resisted by this House the Government considered it prudent to take this possibility into account in assessing the income tax yield. The figures assume that for the last quarter no activity will replace this loss. The projected loss in yield is estimated at some £350,000. Obviously the impact in a full financial year would be more than £1.4m because of the multiplier effects throughout the economy. The projected yield for direct taxation also assumes a down turn in the private sector. Allowance has been made for a pay review of 5% over nine months in the public sector only.

Philatelic sales and income from interest are expected to drop significantly; the latter as a result of the decrease in the funds available for investment.

Determined efforts have been made to control expenditure. Reductions have been made in the departmental bids for desirable but not essential expenditure.

Finally, I draw the attention of Hon Members to the fact that only token provision is made for the payment of wages at Waterport Power Station. The deliberations of the Steering Committee have not yet been completed and it is probable that supplementary funds may be required later this year when manning levels at the Undertaking have been decided.

The financial operations of the Funded Services are summarised at Appendices A, B, C and D of the Draft Estimates.

The Electricity Undertaking Fund will receive a budgetary contribution of £628,000 in 1982/83; an increase of £308,200 on the original provision. The amortised cost of the Waterport Power Station will begin to have a significant effect on the fund this year, and consequently there is a projected deficit balance on 31 March, 1984, of £559,200.

The Potable Water Service Fund will also require an increased budgetary contribution. It is estimated that the contribution will amount to £632,400 in 1982/83, compared with an estimate of £96,900 at this time last year. I have already explained the reasons for the increase in source of water from Morocco. Despite a projected reduction of about £200,000 in expenditure in 1983/84 compared with the revised estimates for 1982/83, the fund is expected to show a deficit balance of £383,200 as at 31 March, 1984.

As in previous years the Telephone Service Fund will receive no budgetary contribution in 1983/84 and the estimated deficit of £156,500 as at 31 March, 1984, will be carried forward. Notwithstanding a reduction in some rental charges earlier this year, the sale of the obsolete Strowger equipment together with an increase in receipts from the trunk call service has resulted in a reduction of some £60,000 in the estimated deficit for 1982/83 compared with the original projection.

The Housing Fund will require a lower budgetary contribution in 1982/83 than was originally envisaged. An increase in expenditure in 1983/84 will however result in a deficit of £1,383,100 as at 31 March, 1984.

The Improvement and Development Fund is expected to carry a deficit balance of £3m as at 31 March, 1983. The Government has met the initial outlay of locally funded development projects from its own resources rather than external borrowing.

The Government shortly expects a decision from the Overseas Development Administration on the funding of the desalination plant to be built at Waterport. If the project is approved in its entirety it will be possible to exercise the option to purchase a second distiller at a total contract price of £6.6m. The Government would then be able to channel such funds obtained through borrowing into housing, education and other miscellaneous projects.

Mr Speaker, having set the scene for the Gibraltar economy and for the Government's financial position I move on to the Bill now before the House which sets out the legislative proposals for fiscal and allied changes for this financial year, including proposals for increases in the Public Utility Undertaking Charges for potable water.

With the permission of the House, Mr Speaker, I will deal first with direct taxation. For the second successive year no major change in the level of personal taxation is proposed. Personal allowances were last changed in the 1981 Budget by £100 from £750 to £850. Since then the allowances have been eroded some 16% by inflation and to put them on par this year with 1981 prices would mean an increase of £136 say £150 to £1,000. Every increase of £100 in allowances reduces direct taxation collectible by about £0.5m. The cost of up-dating personal allowances in real terms would therefore be some £0.75m. The Government does not consider that such an increase in allowances can be justified when:-

- (i) Funds are urgently required to carry out Housing Development projects some of which will have to be funded by a transfer between the Consolidated and the Improvement and Development Funds;
- (ii) The Government is being forced to put at risk indirect tax revenues which at present offer no scope for significant revenue gains to offset a reduction in direct taxation;
- (iii) There is likelihood of growing unemployment and this will automatically erode the yield from direct taxation.

With inflation, this means an increase in taxation in real terms. Fortunately, the rate of inflation has fallen to some 5% over the last twelve months and no dramatic upturn is expected during 1983. Moreover, as I have made clear in reply to a question earlier in this meeting, the disparity between direct income tax levels in Gibraltar and the United Kingdom has widened following this year's United Kingdom budget. This disparity is however reversed in terms of indirect taxation.

The Government has accepted a suggestion that moneys covenanted to charitable and religious institutions should be deemed to be the income of the charity and exempt from income tax. This would mean that the charity concerned would be given the tax relief not the donor. The use of such covenants will be restricted to charities approved by the Governor-in-Council and subject to a maximum amount allowable per taxpayer of £500 per annum for a minimum period of three years.

Two administrative concessions are now to be covered by legislation. Paragraph 16(2) of the Income Tax Ordinance is to be amended to enable the Commissioner of Income Tax to set off tax, known to have been deducted and not paid over by a company which has gone into liquidation, where the amount has subsequently been written off by the Financial and Development Secretary. This procedure clearly could be open to abuse and the Financial and Development Secretary of the day will clearly need to be fully satisfied that the amount owed cannot be recovered before writing it off.

The second administrative concession is that non-residents have not been deemed liable to tax on income arising outside Gibraltar, even if it is remitted to Gibraltar, provided it is held in a trust. In effect the new provision will ensure that the income of a non-resident beneficiary of a trust will not become liable to tax by reason only of residence in Gibraltar of the trustee or trustees having the direction, control or management of the assets owned by the trust.

The Government also proposes to introduce probably at the next meeting of this House separate taxation measures under the Income Tax Ordinance for companies owned by non-residents, which meet certain qualifications, thereby being termed as "qualifying companies". Full details will of course be provided when the Bill in question is before the House but a brief outline at this stage would help. Basically only companies whose trade or business is such that all receipts and income arise in the ordinary course outside Gibraltar or from dealings with tax exempt companies or other qualifying companies will be involved. On the grant of a certificate issued to such companies - for which it is proposed to charge an annual fee of £250 and the payment of a deposit of £1,000 - this would be on account of any future tax liability - company profits would be liable to tax at one of two rates, depending on whether or not profits are remitted to or received in Gibraltar:-

- (a) in the case of a company receiving taxable income in Gibraltar, 27p in the £;
- (b) in other cases, ie when profits are not remitted to or received in Gibraltar, 2p in the £.

In addition tax would be deducted at the rate of 2p in the £ from dividends, interest, directors fees etc payable by such companies to non-residents. The fee for the issue of the certificate would not be refundable and any outstanding tax would be deducted from the deposit before it is refunded when the company ceases to be a qualifying company. The economic benefits from the scheme are unquantifiable but it is thus hoped to enhance Gibraltar's attraction as an offshore centre to large overseas companies with consequential benefits to the economy and of course to revenue collection.

On indirect taxation no change in specific duties is proposed. It is still too early fully to establish the trend emerging following the recent reduction in duty on cigarettes. Figures of the sales of cigarettes for the last quarter have only just been received and all of them have not been received yet and are still being processed.

However it is intended to reduce ad valorem duties on small inexpensive items so making them more attractive to tourists. For most of these items the basic rate of duty will be changed from 15% to 12%. The duty on perfumery (now 25%) and jewellery (now 21%) will also be reduced to 12%. This will also have the

advantage of administering a more rationalised tariff structure. In an effort to stimulate bunkering it is proposed to halve the fuel oil export tax from 54p to 27p per metric ton.

The total loss of revenue in a full year assuming no increase in turnover will be some £209,000.

To encourage local manufacture and assembly of metal or wooden doors and windows and their frames a duty of 12% is being imposed on made-up items. This will be kept under review to ensure that the price of such locally manufactured products becomes competitive.

The import duty on petrol is to be increased from 6.6p to 8p per litre. This will raise some £80,000 in a full year provided there is no further fall in consumption in what is essentially a price inelastic commodity. There will be no change in the duty on diesel oil.

The drawback Regulations will be amended to reduce net import duties which are above 2% to that figure: but for watches the reduction will be to 1%. This change takes account of increases in freight charges by air on small items such as are sold from the Government cubicles. The change should stimulate this trade.

The Government proposes to increase motor vehicle licences for private motor cars and motor cycles. These fees were last increased in the 1981 Budget. The increase at that time was of the order of 40% in licence fees.

The increases are:-

| <u>Motor cycles</u> | £ | |
|---------------------|----|----|
| Present fee | 9 | 14 |
| Proposed fee | 12 | 25 |

The House will wish to note that the licence for large motor cycles weighing more than 200 lbs ie the one which was previously at £14 and which has gone up to £25, is increased by some 78% to £25 a year.

| <u>Private cars</u> | £ | | | | | |
|---------------------|----|----|----|----|----|----|
| Present fee | 27 | 32 | 35 | 39 | 42 | 49 |
| Proposed fee | 35 | 41 | 45 | 50 | 54 | 63 |

The above increases for cars represent some 28% and in total the increases would provide additional revenue of some £90,000 in a year.

Regulations covering the issue of TV licences are to be amended to provide that dealers obtain a TV licence on selling the set to a resident; and that revenue officers should be formally empowered to enter premises to ascertain and ensure that the householder has a licence for any TV set. Such powers will only be used when a householder who is known to have had a set and failed to renew the licence also fails to respond to correspondence reminding him that renewal is overdue. It is not intended at this stage to increase TV licence fees. To do so would penalise those who renew their licences annually.

At present only bona fide visitors are permitted to register vehicles with GG plates. It has been represented that additionally the concession should be available not only to residents, including servicemen, who are severing their links with Gibraltar but also to non-residents without the need to come to Gibraltar personally to collect the car. The Government considers that there is merit in this proposal and has agreed that:-

The GG concession should continue to apply to all motor vehicles and not be restricted to new vehicles; however vehicles first registered with G plates will not be eligible for this concession;

both the purchaser and the vehicle must remain outside Gibraltar for at least 12 consecutive months after taking delivery; the Collector of Revenue would be authorised to permit the temporary re-importation at his discretion eg for servicing by the authorised car dealer;

the purchaser need not take delivery in Gibraltar.

The Development Aid Ordinance makes inadequate provision for substantial relief to new industries, particularly where these do not necessarily involve the construction of major buildings or other fixed assets but require significant imports of expensive capital equipment, for example, computers for a computer bureau. Having regard to the need for economic diversification provision is made by amendment to the Development Aid Ordinance to permit relief on the payment of import duty for projects approved as new industries where a Development Aid Licence has been issued under the Ordinance.

I turn now, Mr Speaker, to the Funded Services. The Government is once again faced with substantial deficits totalling £2.3m on the funded services. It is therefore proposed to continue reducing subsidies as in previous years.

The projected deficit on the Housing Fund is some £1.4m; this is 56% of the projected rent roll. Rents will be increased in July by an average of around 15%/20% yielding about \$250,000/\$300,000 pa, that is £225,000 for 1983/84. The increase will be based on a re-assessment of rateable values and will therefore vary from estate to estate. Rates increases will be subject to a moratorium.

On electricity the projected deficit is \$559,200 or some 13% of bills issued. A number of factors are likely to affect the size of this deficit during the course of the year. The first is the cost of running the new Waterport Power Station and the second, movements in the price of oil and the strength of the pound sterling against the US dollar. A third factor that must be taken into account is the response by CDA to our project application for a third generating set. If the latter is funded on grant terms, this will materially affect the size of the Fund's deficit.

During the project study of the commercial Dockyard proposals Cooper Lybrands have been undertaking a study of electricity charges at both the Ministry of Defence and Gibraltar Power Stations. As an extension to this they have been invited to make a comprehensive study of the effects of the construction of a new Generating Station, of using waste heat for the distillation plant on the Electricity Undertaking Fund over a number of years and to put forward proposals for tariffs more consonant with developing Gibraltar's industrial and commercial potential. This should be ready by mid 1983. The Government proposes therefore to meet the electricity deficit by budgetary contribution. Hotels will continue to receive a discount on bills paid within 30 days of issue; the subsidy on current consumption would be £35,000.

The projected deficit on the Potable Water Fund is £383,200 or some 20% of bills issued. The following increases are proposed in water tariffs with effect from the accounting period including 1st May, 1983:-

- (a) Domestic consumers -
 - Primary rate - from 17p to 19p per unit
 - Secondary rate - from 38p to 40p per unit
- (b) Hotels - from 50p to 55p per unit
- (c) Hospitals, schools, Government Departments and Ministry of Defence - from 50p to 58p per unit
- (d) Swimming pools - from 75p to 90p per unit

No changes are proposed for shipping, fountains, deliveries by lorries, temporary piped supply nor the meter rental. Hotels will continue to be charged at 40p per unit; a subsidy of 15p per unit subject to payment of bills within 30 days of issue - this subsidy would operate as at present, as a rebate on payments by the due date. The subsidy to shipping will also continue. The cost to the Consolidated Fund of these subsidies is estimated at £76,000 ie hotels £66,000 and shipping £10,000. To the domestic consumer, the projected increases will result in an increase of just over 10% or 72p per month in the water bill of an average family of four persons.

The effects of the proposals I have just outlined on the projected financial position would be to convert the estimated Consolidated Fund Balance of £7.989m at 31st March, 1984, to £8.484m. As soon as the Chief Minister has spoken a revised financial statement showing the effects of the detailed changes will be circulated to Hon Members.

Mr Speaker, I give notice that during the Committee Stage of the Appropriation Bill, the Government will seek to make additional provision for the budgetary contributions to the Funded Services and the projected subsidies to hotels and shipping.

Finally, Mr Speaker, in this my last Budget speech I wish to thank all members of my staff, Ministers and Heads of Department, who over the past four years have been involved in the preparation of the annual Budget, and who have given me unstintingly their time, advice and help. I would also like, Mr Speaker, to thank those in the private sector - and this is a genuine tribute - who from the beginning of each new year have come forward with positive ideas for the benefit of the economy. I have not always accepted their proposals but at least they have been considered. It would be invidious to select for special mention any particular group.

Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

I will then now call on the Hon and Learned Chief Minister to make his speech on the Finance Bill.

HON CHIEF MINISTER:

Mr Speaker, the House will wish to join me in thanking the Hon the Financial and Development Secretary for his exposition of the financial and economic situation of Gibraltar and of the internal and external factors which have a direct or indirect bearing on it. We are grateful for his painstaking and devoted commitment to Gibraltar's interests and to his un-failing efforts and untiring work to further those interests. I am particularly appreciative of the frank and sincere manner in which he has spoken and though we may have an opportunity at a later stage to say a real farewell I think I reflect the feelings of all Members of the House in saying that it is indeed sad that this is his last Budget speech. I want also to endorse the remarks he has made about those who have helped him in the difficult task of preparing this Budget.

Sir, this time last year, I said that the theme of the budget for that year had to be caution, prudence and consolidation in the face of the many uncertainties facing Gibraltar, the two major ones being the future of the Dockyard and the re-opening of the frontier. Events since then have more than justified that decision and that approach and the situation is different today only in the sense that we are that much closer to the crunch on the Dockyard and that the partial re-opening of the

frontier, apart from its political implications and discriminatory nature, has had some adverse effects on the economy. Before I go on to deal with the main points of the budget in some detail, I should like to comment on these two issues which are of such fundamental relevance.

I should first report formally to the House on the response which I have received from London following the adoption by the House, on 22 February, 1983, of a motion which stated, among other things, that the House appealed to Her Majesty's Government to reconsider its decision to close the Naval Dockyard. In that response, copies of which were sent to the Hon and Learned Leader of the Opposition and to the Hon Mr Bossano on 11 April, I am assured that there is no question of any weakening of Britain's longstanding commitments towards Gibraltar. 'Nevertheless', the letter continues, 'the reasons for closing the Naval Dockyard remain as valid today as when the decision was first taken, on the basis of a review of future requirements in Dockyard support services, in 1981, consequently Ministers do not propose to alter their decision to close the Royal Dockyard in 1983'.

I would remind the House that the last paragraph of the motion of 22 February stated that the House considered that full consultation should take place between all political parties represented in the House of Assembly before a final decision was made by the Gibraltar Government on the commercialisation of the Dockyard. That commitment will of course be fully complied with.

The Report on the question of the viability or otherwise of a commercially operated yard will be received next month. Our policy on this matter continues to be one of opposition to the closure of the Naval Dockyard but, as I have said so often, it is the Government's responsibility to consider carefully and dispassionately whether the commercial option is one which would produce a satisfactory, lasting and secure alternative.

If, after considering the Report, the Government were to be fully satisfied about this, it will support commercialisation and would hope that all concerned would approach the change-over with enthusiasm and with the will to make it work in the interests of those directly affected and of Gibraltar as a whole.

If the Government were not to be satisfied with the Report, it will make it clear to the British Government that it cannot support it and that the whole situation must be looked at afresh, in close consultation between the two Governments, as a matter of urgency and in the light of the British Government's responsibility for and commitment to Gibraltar. In such a situation, the Gibraltar Government will take the matter, with the utmost determination, to whatever level of the British Government might be necessary. We would also, throughout this vital period, keep in close touch with our many friends in the British/Gibraltar Group in Parliament.

There are compelling reasons for the Government's approach to this matter. If the Government had refused to cooperate in the investigation into the viability of a commercially operated yard it would have been seen, both by the British Government and by Parliament as a whole, to be acting irresponsibly and unreasonably. This investigation had to be carried out in order to establish the matter, one way or the other, beyond reasonable doubt. No one, including the British Government, can make a judgement on the question of commercialisation until the Report is available. When it does, we will, as I have said, and as we are bound to do by resolution of this House, consult fully with the two other political parties represented here before a final decision is made.

This brings me to the question of the decision of the Gibraltar Trades Council to take industrial action in pursuance of its opposition to the Dockyard closure. I must make it clear that I understand perfectly the feelings of the Trade Union Movement as a whole on this matter. Indeed, I can say that I share those feelings. This matter is vital for all of us. I also respect fully the right of the Trade Unions to take whatever action they wish - with, of course, the support and backing of their members. I and the party which I helped to found during the war introduced effective trade unionism into Gibraltar. Let there be no question of a row between the Government and the Trade Union Movement. We are all in this together and we must work together, not least at a time when we are being as hard-pressed, from different directions, as we are being now and more than ever before. But I must appeal to the Trade Unions to recognise that industrial action, at this stage at least, can not only serve no useful purpose but can be contrary to the interests of the people of Gibraltar as a whole, the great majority of whom belong to Trade Unions. As I have said, the Report on commercialisation will be available within the next month. Until that Report is received, neither the British nor the Gibraltar Government will be able to make up its mind. It must be clear to all concerned that industrial action at this stage is not going to achieve anything except to put at risk the continuing provision of further naval work and the strong and massive support which Gibraltar today enjoys in Parliament and in Britain as a whole. I can assure the House that Mr McQuarrie's reaction to the blacking of the fleet was not an isolated one and, whatever, may be felt about the way in which it was expressed, I can tell the House that it became clear from telephone conversations with two of Gibraltar's staunchest friends in London on the day the blacking commenced that they were horrified at the implications and that, while they continued to be as ready as ever to fight for Gibraltar's interests, their ability to do so could well be hampered and undermined by further industrial action.

If the Report on viability of commercialisation is unsatisfactory, that will be the time for us, for all of us, to fight together, as we have done so many times before, to defend and protect this community.

I repeat that I fully understand and respect the feelings of Gibraltar's Trade Union leaders. I am simply saying that I believe a strategy of industrial action at this stage is unwise, the Hon Mr Bossano has two capacities. He is the leader of a political party represented in this House and a notable and influential personality in the Trade Union world. I am sure that he makes a clear distinction between these two categories and that he does not allow his political aspirations to influence his role as a trade unionist although it is perfectly alright, as far as we are concerned, for his Trade Union role to influence his politics.

One final point I would wish to make on this matter is to note that the Partido Socialista de Gibraltar fully supports the strategy of industrial action. I would have thought that that, by itself, would be the most compelling argument for no one else to have anything to do with it. I certainly would not wish to be associated in any way with that organisation and if it were one day to say that it agreed with me on any matter of policy, I would feel it wise to change my policy at once.

There is not much that I need to say on the question of the partial re-opening of the frontier. Consultations on possible protective measures are continuing and decisions will be taken in the near future. At the last meeting of this House I made clear my views on the Spanish Government's latest failure to implement the Lisbon Agreement and on the attitude which I believed Gibraltarians should adopt in response to that failure. My views have been reinforced by the extraordinary Spanish reaction to the routine visit of the British fleet in the last few days.

Developments at the frontier have given rise to demands for additional expenditure. The general economic outlook is gloomy, severely compounding the recessionary pressures which afflict the economy. Our reserves are projected to fall from £11.7m at the beginning of the financial year to just under £8m by the end. Although this reflects stagnant revenues and large deficits on the Funded Services, it also takes account of a contribution to development from the recurrent budget.

The budget strategy for this year cannot discount the nature of the economic problems which will beset Gibraltar. The forecasts point to rising unemployment, no real scope for revenue growth and belated development momentum. The stability of the Government finances and of the economy as a whole has to be safeguarded come what may.

This year the Government has pruned departmental bids of expenditure by some £3m without sacrificing the high standards of services and welfare which the community as a whole expects to receive and the Government aims to maintain. One major area which has been closely examined as in the past, but without exclusive treatment, is the level of overtime working. It must be understood that the Government's wages and salaries bill stands at £25.5m, that is 53% of total recurrent expenditure. Overtime and allowances account for £4.3m, after having

planned reductions in areas where overtime levels, for a variety of reasons, have surreptitiously moved beyond the absolutely essential. Already, as in the case of refuse collection, some steps have been taken to contain overtime but the reaction has unfortunately been adverse. Here, as in all other areas where reductions are planned, I hope it will be understood that the savings in expenditure should be considered more broadly and rationally. Whatever those affected may lose, the generality of taxpayers (including those affected) will gain. At least, the need for even higher taxation will be avoided. Other areas have been closely scrutinised. For example, bids for replacement of small plant, vehicles, and equipment, for increases in training overseas and for tourist advertising have been curtailed. These have not followed a pattern of presentational cuts which would in any event prove to be false economy. They have arrested a trend for improvements which would be either unnecessary or unrealistic in the context of our budgetary position and our relative size.

It is recognised that last year's neutral budget has in real terms not compensated for the modest pay increases consequent on parity and that real disposable incomes fell slightly in 1982, for the first time since the substantial gains since parity was implemented in 1978. Rather than reduce taxation and jeopardise our reserves, the Government plans to channel substantial funds into the financing of development projects, notably housing. £1.5m is earmarked for the Improvement and Development Fund and more will be transferred to that Fund if possible and necessary. We have a clear choice - either we build houses, we maintain and provide our power and water services, we improve our schools etc, and hence provide employment, or we boost personal incomes directly in order to boost consumption on luxuries which as a community we cannot really afford and can do without, particularly if that consumption were to find its way outside the Gibraltar economy.

Last year I referred to the level of arrears, then standing at £3m. This year they are up to £4m. A substantial element of this is owed by the trade. I do not underestimate the difficult times certain sectors of trade may find themselves in. But it is no use complaining about high municipal costs, about the lack of Government assistance and interest, moreso with the partial frontier opening, if the trade does not respond by a more aggressive approach to their market and a more responsible attitude to commitments. What I mean, and Government has evidence to this effect, is that certain traders, protected as they are, could reduce profit margins, improve competitiveness and pay their bills on time, and not expect Government to reduce duties or charges and legislate for further protective cover. A more enterprising spirit is required.

Last year I also asked people to invest in Gibraltar. The issue of the latest 10% tax-free and estate duty free debenture is, as the Financial Secretary has stated, attractive and the first £1m tranche has nearly been fully taken up. I would

like this encouraging response to continue and if possible improve. Let us put our savings into Gibraltar where they can be used for development rather than tucked away in offshore funds affording tax avoidance facilities.

At the end of the day, all these issues revolve on the will of the individual - employee or trader. The will to accept less overtime, the will to pay one's dues to the community in time, the will to charge a fair price, the will to spend and invest in Gibraltar and the will to produce a fair day's work for a fair day's wage.

Once again this year we do not intend to reduce direct taxation. As the Financial and Development Secretary has explained, because of the constraints on the economy and the budget, we prefer to channel resources to fund capital investment and not to boost personal consumption.

On direct taxation, I hope the trade will follow the lead given by Government in reducing import duties with a more competitive attitude in tourist goods. I expect to see that lead materially reflected in lower profit margins. These measures will put some £209,000 of revenue at risk. Earlier this year we reduced the duty on cigarettes putting some £350,000 of revenue at risk. On the latter, the indications are that we may recoup a fair proportion of the potential loss through increased sales. This may not be so certain in the case of those duties we have now reduced. This potential revenue loss therefore needs to be minimised, but there is a limit on what we can do without it being fiscally counter-productive or unfair on the consumer. There is one area which the Government considers can absorb some increase - motor vehicles. The average increase in the annual licence is around £10. At the same time we have nearly doubled the fee for large motor cycles. Petrol duty will go up by 1.6p a litre.

On the Funded Services, the Government does not intend to increase electricity charges for the time being. The Financial and Development Secretary has dealt with the reasons for this and I hope that the tariff review will come up with a structure which will spread the burden of electricity costs in a fair manner. It is clear, however, that this burden will continue to be high unless we see further falls in oil prices. In the case of water, the increase is very modest, 72p a month or around 10p to 15p a week for an average family of four. The increase in rents will follow a regrading of properties. The average increase is between 15% to 20% - the precise figure will not be known until the Housing Department completes the detailed assessment of all flats. For post-war flats, the rent increases will range from £1 to £4 per week. The increases for pre-war flats will vary depending on the standard of accommodation. These will range from £0.50 to £2.00 per week. These increases will take effect from July 1983. The rates increase will be deferred into 1985. The effect of these measures will be to reduce the deficits on the Funded Services from £2.33m to some £1.7m. Despite this, the water and housing funds will continue to receive budgetary contributions. Hotels and shipping will continue to receive subsidies. The effect of this year's budget measures on the index of retail prices will be around 1.2%.

I should like to finish by reiterating that we face one of the most crucial years in our history and we must realise the heavy burden of responsibility which lies on each and every one of us inside and outside this House to contribute to uphold our standards of living, our welfare and our survival as a free community with a sense of dignity, honour and pride.

MR SPEAKER:

We will now recess to give the House an opportunity to consider the statements which have been made by both the Hon and Learned the Chief Minister and the Hon the Financial Secretary and we will return at 4.30 upon which I will invite Members to speak on the general principles and merits of the Finance Bill. We will resume at 4.30 and may I warn Members that we will not be having a tea recess, so it will be from 4.30 to approximately 7 o'clock this evening.

The House recessed at 12.25 pm.

The House resumed at 4.45 pm.

MR SPEAKER:

Well, gentlemen, I will remind the House that we have now had the commendation of the Bill by the Hon the Financial and Development Secretary and the statement by the Hon and Learned Chief Minister and I will now invite, before I put the question, any Member who wishes to speak on the general principles and merits of the Bill to do so.

HON G T RESTANO:

Sir, once again it is my pleasure to rise on behalf of the Democratic Party of British Gibraltar to respond to the new procedure which we welcome of presenting the Gibraltar estimates of revenue and expenditure for the year 1983/84 together with the Government's budgetary measures. No doubt other Hon Members on this side of the House will have views to express on the estimates of revenue and expenditure as well as the budgetary measures and my Hon and Learned Leader will when winding up the debate on behalf of the Opposition clarify and reinforce the views of my Party on what can only be regarded as a crucial year in the history of Gibraltar.

The estimates of revenue and expenditure are perhaps slightly misleading to the average man in that the economic effects of the partial opening of the frontier and the effects of the possible closure of the Naval Dockyard at the end of this calendar year are not really reflected in these estimates because in the case of the partial opening of the frontier these effects will only become more evident towards the end of this financial year and of course the actual closure of the Dockyard has not taken place and consequently it is difficult to reflect this event in the estimates.

Foreign affairs and the Naval Dockyard continue to dominate the life of Gibraltar, its economy and its people. The closure of the Naval Dockyard could be only a mere eight months away. We on this side of the House hope and pray that the British Government will continue the operation of the Naval Dockyard into 1984 and beyond but it seems fairly clear that firm decisions appear to have been taken and that the Dockyard will in fact close at the end of 1983. However, we must not forget that neither the British Government nor indeed the Gibraltar Government have made any firm decisions on a viable alternative to the Naval Dockyard and we on this side of the House believe that the Dockyard should stay open until a viable alternative is found. We hope that when the project study has been completed that the Opposition is consulted by the Government before any final decision is made on commercialisation of the Dockyard.

Mr Speaker, the signs are clear that a decision has been taken that there is no continuing requirement for a Naval Dockyard in Gibraltar as indeed in other places in the United Kingdom and that this arises from the Defence White Paper and subsequent statements on defence which have reduced the requirements for Dockyard capacity. It seems clear to us that if the Naval Dockyard is to continue in operation in Gibraltar it will be entirely because the British Government and the British people recognise that to remove the base of the economy of Gibraltar which the Naval Dockyard represents will do incalculable harm to the way of living and the standard of living of our people and could not be compensated for by a commercial operation. If that is the situation then it is clear in our minds that the last resort of appeal of the people would be to the British Parliament. It is only the British Parliament that can, if it so wishes, overturn the decision of the Government. We in the Opposition believe that an attempt should be made under the aegis of the British/Gibraltar Group to do just this if this is at all possible. This will require, of course, Mr Speaker, a lot of effort on our part and should clearly be mounted on an all-party basis.

We do not believe, on this side of the House, that those efforts are likely to be encouraged or lead to success if the Gibraltar Trades Council leadership is going to behave in the manner that it did last week when it decided to black the British Fleet visiting Gibraltar as a means of advancing the objective of keeping the Naval Dockyard opened. We of the DPBG believe that the vast majority of the people of Gibraltar including the vast majority of working people in Gibraltar were appalled at the decision of the Trade Union leadership and thoroughly regretted and opposed it as being against the true interests of the people of Gibraltar. The damage, Mr Speaker, has been done and we on this side of the House hope that the British Government and British Parliamentarians will understand and realise that the views of the leadership of the Gibraltar Trades Council in deciding to take the blacking action on the British Fleet, which we all welcomed to Gibraltar, did not have any real support. We would also like at this point in time to observe that in our

view the Gibraltar Broadcasting Corporation again failed to reflect the true feeling in Gibraltar and we are astounded that following statements by the Chief Minister and by our party, GBC interviewed the Hon Mr Bossano but failed to seek interviews either with the Chief Minister or with the Leader of the Opposition.

The DPBG believes that the Gibraltar Trades Council are utterly misguided in the course that they are following in trying to keep the Naval Dockyard open by industrial action. It is impossible in our view to seek to keep an enterprise open by damaging it through industrial action. All such action can do in reality is to accelerate the process of the closure and defeat the possibility of placing an alternative in the place of the Naval Dockyard. We are fearful that if industrial action escalates that not only will the working people in the Naval Dockyard lose their jobs at the end of the year but that any possibility of obtaining alternative employment will also be obliterated. The leadership of the Gibraltar Trades Council has a very serious responsibility and the working people of Gibraltar will not thank them if they exercise that responsibility without due regard for the real interests of the workforce.

The partial opening of the frontier has created for Gibraltar a very difficult situation and will undoubtedly have serious effects on the economy if it is to continue for any appreciable amount of time. It seems that the Spanish Socialist Government is just as intent to damage and ruin the economy of Gibraltar as their conservative predecessors. The principles of comity inherent in the European Economic Community to which Spain aspires to join are just non-existent where Gibraltar is concerned. The Spanish Government has not kept its word and this must have serious repercussions for the future.

It is becoming increasingly obvious that the present Spanish Government has little intention of implementing the Lisbon Agreement and that they are clutching at any pretext (the latest case being their absurd objection to the British Fleet visiting a British Base) to avoid the implementation of the Lisbon Agreement. This must surely demonstrate beyond doubt that the Spanish Government does not consider that Agreement to be in Spanish interests surely mainly because of British recognition of the right of the Gibraltarians to self-determination declared by them in the Agreement.

There is as the situation develops a need among all parties in Gibraltar and elected leaders to take and adopt a Gibraltar view on the many problems that are facing us especially in regard to the Dockyard and the frontier. Mr Speaker, it is against this background that we must look at the revenue raising measures that have been announced by the Government. The action that is required in Gibraltar is a policy that faces up to the problems and seeks solutions.

In addressing ourselves to the budgetary measures proposed by the Government such as they are I would like at this stage to state how sorry we are on this side of the House that this will be the last budget moved by the present Financial and Development Secretary. His presentations to this House at Budget times and indeed other times have always been studied and careful and he has always displayed great courtesy to all Members of the House. We are sorry that this will be his last Budget and wish him the best for the future. Mr Speaker, it will also be the last Budget for the present Government and the budgetary measures proposed show distinct signs of this.

We get the decided impression from the speech of the Chief Minister that he is very undecided as to the measures that should be taken. Whilst we accept that the situation is a difficult one, we cannot agree that the financial picture as far as the finances of the Government are concerned, is at all alarming. The new estimated Consolidated Fund Balance as at 31st March, 1984, of £8.4m following taxation measures reflects a healthy position and we feel Government should have done more in terms of positive measures to remedy the damaging effects of the partial opening of the frontier. I know that the Chief Minister has stated that further measures will come if found necessary to do this but we regret that the general thrust of the budget measures has not gone as far as we on this side of the House have been advocating in order to make Gibraltar more competitive. In the face of a worsening economic situation it is essential that the Government give leadership and take bold measures. The cuts in import duties announced by Government although welcome and consonant with the cries from this side of the House that import duties should be dramatically reduced, do not go far enough. We welcome the cuts that have been announced such as they have been but question whether a reduction of import duties from 15% to 12% on a whole range of goods is sufficient to bring about a real cut in prices in Gibraltar. We regret that no cuts in import duties have been announced in articles that affect the cost of living index such as clothing and shoes. There is a local Gibraltar market in these items and there should be incentive created within Gibraltar for people to purchase their needs in these goods in Gibraltar and not in Spain. We accordingly think that the Government should have been bolder in their measures of cuts in import duties so as to create the proper competitive spirit in the trade in Gibraltar and encourage greater personal spending by residents of Gibraltar within Gibraltar.

We have noted the proposed cuts in the fuel oil export tax and in the drawback regulations relating to the re-export of goods from Gibraltar. We welcome any measures that are aimed at helping the Port of Gibraltar and attracting shipping as indeed of supporting the re-export industry. Later on I mention the need for Government to take other measures in the Port to encourage and attract more shipping to Gibraltar. The export industry of Gibraltar and export services are areas that should be encouraged to grow and I hope that the Government will keep a close watch of movement in competitive ports in relation to taxes such as we have.

We are sorry to see that the Government has not been able to see its way to increasing the personal allowances under the Income Tax Ordinance and that consequently Gibraltar remains one of the most highly taxed territories in Europe and that the differential between taxation on incomes in Gibraltar and those in the United Kingdom continues to grow wider. We believe that the need to tax residents of Gibraltar so highly arises from many years of mismanagement of the economy by the present Government in power and that consequently they are unable to give the relief which the overtaxed Gibraltarian deserves. The continued mismanagement in areas such as the electricity undertaking continues and in a frantic effort to save what is a deteriorating situation Government now bring in a firm of Chartered Accountants to advise further on the development of the electricity undertaking serving only to emphasise the problem that the Gibraltar community have found themselves in where electricity is concerned as a result of very poor planning and complete mismanagement.

Obviously the Government is unable to raise electricity charges because of the manner in which the electricity consumer's monies are being squandered by the Government and by management in relation to the Waterport Power Station and accordingly the Government has decided instead to increase water charges once more. No information has been given about the need for such increases and the result is that the consumer once more has to pay for the increased cost of production, for the large water losses, and for every other inefficiency of the Minister responsible for that department. It is our view that with the tourist industry as the second largest industry in Gibraltar, the water charges for hotels should not be set at higher than 40p per unit and that there should be a deduction made in respect of prompt payment of bills. If we are going to go on increasing the cost of services to the tourist industry then that industry will in the end collapse and with that collapse will come further losses in employment and in employment opportunities.

Mr Speaker, with regard to the increases in licence fees for motor cycles and private cars, we would observe that it seems odd that the increase in licence fees for private cars should be higher with the smallest car than with the largest car. We feel that the same distinction should be made to percentage increases to private car licences as with motor cycle licences. In other words, the proportion should be much higher at the bigger car levels than at the smaller car levels. As far as motor cycles are concerned we feel that a consideration should be given to charging the very small motor cycles a very minimal increase so as to encourage people to use these rather than motor cars.

We note that TV licence fees are not to be increased but we regret the move to impose on dealers the obligation of obtaining a TV licence on selling a TV set to a resident. It seems to us that this is putting an obligation on trade which should clearly be discharged by the Government, that

is the collection of licence fees. The trade already inform Government to whom they sell TV sets and we think it is not too much to ask from Government Collecting Agencies to do just that. We cannot understand the reason for this measure and we oppose it.

We welcome the proposed amendments to the Development Aid Ordinance to help manufacturing industry as well as proposals to change the Income Tax Ordinance to give certain benefits to qualifying companies. Presumably the latter measure is in relation to improving and promoting Gibraltar as a tax haven and we are sorry to see that both in the case of the Development Aid Ordinance as indeed in this case no legislative proposals are before the House.

Mr Speaker, to sum up on the revenue raising measures. We do not find them harsh but we do find that they are not bold enough and do not include sufficient incentives to raise the spirit of people and to give people the knowledge and the feeling that Government is in control of the situation and is not just drifting with events. In our election year this is bound to be a reasonably popular budget but whether it meets the real needs of the economy and its development is open to considerable doubt.

Mr Speaker, it is clear from the financial statement for 1983/84 that the revised estimated consolidated fund balance as at 31st March, 1983, does in fact present a picture reasonably healthy. The surplus the Government has had over the year has in fact been higher than that estimated despite the additional expenditure that has been incurred. The Consolidated Fund Balance as at 31st March, 1983, of £11,688,120 is almost £1m more than the amount predicted last year at this time and on the face of it the Consolidated Fund Balance shows a very healthy picture and shows that the Government at least is in a position to tackle the problems that lie ahead in economic terms.

This has not been as a result of competent management on the part of the Government but because of the draconian measures of taxation that have been carried out since the 1979/80 budget. The mismanagement of the economy continues and the Government consequently requires to continue its present system of overtaxing the population. The present example is the increase in rates amounting to nearly 20% which has occurred this year. At a time when the Government appeals for a reduction in costs and in prices it seems to consider itself to be exempt from such constraints when it comes to its own revenue raising measures. If we are to avoid a collapse of the economy there is undoubtedly a need for Government to be cost-conscious and indeed for the population to be made aware of the need for public expenditure to be kept in present circumstances to a minimum.

Our party has in the recent past warned of the danger of a two nation society brought about by the disparity of earnings between the public sector and the private sector. There is a

danger of the creation of a three nation society by virtue of disparity of earnings even within the public sector. In the Fire Services, Electricity Undertakings, Customs Services, Prison Service and Recreation and Sport Departments, average earnings are far in excess of Departments such as Audit, Income Tax, Labour and Social Security and Treasury. I am of course talking of the non-industrials in these Departments.

If one goes to the earnings of industrials, it is not so easy to see the position except when occasionally the Government comes out with a statement as a result of industrial strife as it did, for example, in the recent industrial dispute over refuse collection and refuse disposal. We just do not know what average earnings are in the various sectors of Government departments such as the Public Works Department and the Electricity Undertaking but judging from the earnings that have been announced in relation to refuse collection it is quite clear that some must be very high.

On this side of the House we do not object indeed we support high earnings but we wonder how far these earnings are entirely uncontrolled wholly productive and what effect they have on the rest of the taxpaying body when translated into electricity, water and telephone accounts, for example, or in the high cost of allegedly maintaining housing in a state of repair.

As the pressures on Government revenues rise because of the weakening economy we believe that unless there is a rise in productivity and a cost consciousness in the public sector, the inordinate costs of electricity, water and municipal services, as indeed of maintaining roads and other public services will continue to rise with no corresponding increase in the revenues, necessitating in the last resort severe cuts in public expenditure which could affect the level and efficiency of social services enjoyed by the population. Indeed the situation could develop where even the present system of index-related pensions could be at risk. In our view the efficiency of the Government machine is very much in question and steps have to be taken to streamline the services that the Government gives to society if we are to overcome the crises that undoubtedly Gibraltar is facing.

It is impossible to ask departments to become more efficient and to increase their level of efficiency when Government itself appears to do little to encourage this. The obvious example continues to be the electricity undertaking where the Government has failed the people of Gibraltar dismally with their poor record of management. Government seems to have lost complete control of this department to the extent that the contractors are still responsible for the operation of one of the new engines at a cost to the public of £16,000 a week. The lack of proper maintenance over the years and of poor industrial relations have led to phenomenal wasteful expenditure and to engines not functioning properly. Power cuts have become a part of the life of Gibraltar and despite the commissioning of new engines they continue albeit less

frequently with consequent suffering to the public. The hire of the skid-mounted and trailer-mounted generators which we advised as from the beginning should have been purchased have resulted in further heavy and wasteful expenditure with increased costs to the consumer.

During this year the Committee of Inquiry have reported on the electricity undertaking and this has revealed an alarming situation leading to panic measures and the appointment of a Steering Committee to iron out problems in management - employee relations at great expense to the public. The situation in the Generating Station continues to be a matter of public scandal and the public are having to pay no less than £18,000 a week as far as has been admitted for the privilege of industrial peace in the electricity undertaking. We do not know what other wasteful expenditure is going on in other Government departments because the Government is very secretive in questions relating to its own workforce unless there is a dispute where the public sees the results of it as it did, for example, recently in the dispute with the road sweepers.

The Government in consultation with the Unions must watch its expenditure very closely. As the economy deteriorates the disparity of earnings between the public and private sector could become quite intolerable.

Last year we urged the Government that there was a need to re-organise and restructure the Departments of Housing, Lands and Surveys and Public Works into one large Department. Only in this way we stated could all the technical skills available in these departments be streamlined into one single efficient department. It is still our belief that these departments require to be amalgamated with more than one Minister responsible for them to produce a better and more efficient service. These departments cost some \$11m a year to run or just under 25% of the total of Government expenditure and yet the streets are dirtier than ever, maintenance of Government properties is poor, the Housing Estates are in a bad condition and the situation is totally unsatisfactory. There is a need to produce better coordination and liaison within these departments in order to produce a better and more efficient service.

The number of reallocations of monies made during the year particularly in the Public Works Department shows clearly that there is no intention at all in spending the monies voted for the matters in respect of which they have been provided and it seems that provision is sought merely as a ploy for the department to have funds available for whatever other activities it wishes to engage in without having responsibility of accurate and proper budgeting. I have already mentioned the industrial dispute regarding refuse collection and the cleaning of our streets and it seems to us that as in the Generating Station the Government appears to be losing complete control of the situation and will undoubtedly end up by conceding all claims that are made on it at great public expense at a time when the public can hardly afford it. If the Government cannot efficiently run its operation in this area as indeed in other areas, then Government should consider seriously privatising some of these operations.

It seems to us that where cuts or savings occur in Government expenditure they are invariably in areas where staff and earnings are not affected. Examples of this can be found in the Department of Education where the Government continues to penalise children by not providing sufficiently on essentials such as, for example, books and equipment where Government despite inflation is providing less funds for 1983/84 than for the current year. When one considers that the Government spent in the year 1981/82 £168,755 for books and equipment it is clearly not providing sufficiently in 1983/84 by providing a mere £1,245 more for requirements. In adult and continuation classes again less is being provided than last year as indeed in the provision of financial assistance to youth and cultural activity. When we speak of being cost effective and reducing public expenditure we do not expect the Government to cut precisely in those areas where improved services should be the order of the day such as in education.

We regret, once more, that the Government continues to tax the Elderly Persons Pensions. As we stated last year it is socially unjust and morally reprehensible that persons in receipt of Government pensions under the Social Insurance legislation or under the Retirement Pensions Scheme should receive those pensions free of tax but that those persons in receipt of Elderly Persons Pension which are much lower should be obliged to pay tax on them. The Government refuses stubbornly to remedy the inequality and injustice of this situation and in this year of general election we would remind the Chief Minister how in 1980 he led persons in this category to believe that an elected Government of the GLP/AACR would put this right. Since a general election is only round the corner he could take this year's budget as an opportunity to do just this.

Whilst on the Department of Labour and Social Security, Mr Speaker, we hope to hear from the Minister what plans he has to increase employment opportunities in Gibraltar at this time. We would like to see some sort of youth opportunities programme where Government possibly makes a contribution toward wages in the case of apprentices in the private sector to encourage the employment of young people and to arrest the downward trends. The Minister for Labour who is also Minister for Education should take steps to explain the advantages of training to youngsters and to encourage them to enter trades in the private sector. The training of youth in the Government departments appears to have been cut and when considering cuts in public expenditure the Government should bear in mind the need not to make cuts in areas that can make a positive contribution to the future economy and well-being of Gibraltar.

The level of earnings in the Customs Department, the Fire Services Department, the Victoria Stadium and the Prison Service require some comment. Whilst not in any way deprecating high earnings the level achieved in these departments are such that they pose two questions, the first whether they are not inordinately high and the second whether more staff is not required. In the latter category we would

place the Prison Department where average earnings appear to be £10,625 per annum and where it might be beneficial both for the Prison Wardens themselves and for the community to have a large number of Prison Wardens rather than rely on high overtime earnings and allowances. The same remarks do not apply to the other three departments mentioned but certainly examination should be made in these other departments as to whether there cannot be a reduction in expenditure which seems to be unduly high in these Heads.

By way of contrast, Mr Speaker, we find that average earnings in the Income Tax Department amount to £6,661 per annum and having regard to the number of employees in this Department it is interesting to note that this Department raises in revenue £600,000 per employee per year. If we had this sort of productivity in other Government departments we would indeed be doing very well. We have parity of wages with the United Kingdom though we certainly do not have parity of taxation in fact we are more heavily taxed here in Gibraltar than in the United Kingdom.

In the Fire Services Department we still await the implementation of the law relating to fire extinguishers and in respect of the Victoria Stadium the introduction of charges which the Minister has repeatedly stated in this House at every budget time would be introduced. We know that fire extinguishers despite the provisions of the law will not become compulsory in the lifetime of this House because the Minister knows how inequitable it is to expect tenants in private housing or private landlords to purchase fire extinguishers whereas Government tenants in Government housing are provided with them free of charge. This was a bad law and the Minister clearly is afraid to implement it. As far as the Victoria Stadium charges are concerned the Minister continues in full retreat. One day the Government will realise how important it is that the Victoria Stadium should be run by an independent body chosen by those who participate in sport with a fixed subvention from the Government and not to run it as at present at inordinately great public expense.

We are concerned on this side of the House with regard at the present position in relation to the administration of justice. We feel that there may well be insufficient staff in the Courts and indeed a need to review the requirements of the Supreme Court and the Magistrates' Court. It seems odd that the Admiralty Marshal does not have the back-up necessary to arrest and keep vessels under arrest in Gibraltar. The costs of arrest of vessels in Gibraltar are indeed quite prohibitive and yet if this matter was carefully considered there could be economic benefit to Gibraltar from a system under which ships and yachts could be arrested effectively and economically.

More close to Members of this House is the tendency that now has almost become a practice of presenting draft Bills to the House much too late to enable them to be properly considered as we are duly bound to do. It seems to us that the Law Officers' Department requires review and its staffing

requirements should be examined. Whilst we appreciate the very great pressures under which some departments of Government work including the Law Officers' Department, we feel extra effort should be put to ensure that draft Bills are published at least two weeks before a meeting of the House so as to enable Members of the House as well as other interested parties to consider them. The tendency on the part of the Government to take all readings of a Bill at one sitting means that the general public and more importantly parties whose interests are affected are presented with a fait accompli in the great majority of instances. This is not good, Mr Speaker, for the administration of justice nor indeed for the democratic process. We recognise that on some occasions it is inevitable that Bills should be taken through all their stages but we equally state that this should be the exception rather than the rule which it has now become.

Mr Speaker, we are dismayed about the expected decrease in revenue of philatelic sales by £400,000. We have noticed that this has occurred with the appointment of the Hon Mr Zammit as Minister for the Post Office. Certainly not a very auspicious first budget for him in this post. We are also concerned that even now though there is one air service a day to England no post leaves for England on Saturdays. Considering the revenues that are received by our Post Office this in our view is not fair on the public.

Turning to the Port, this extremely important area for the economy, we question whether tonnage dues are really necessary. Should ships not be encouraged to come to Gibraltar and does not substantial revenue derive to the Government from ships entering the harbour, crews going ashore and so forth? If ships that await on the East side of the Rock could be encouraged to come into the Port this would surely increase economic activity both for the Government and within Gibraltar. The Government should seriously consider this matter.

In the Medical and Health Department the year has seen the arrival of a new Director of Medical and Health Services and we wish him every success in his department. We also hope that he will seriously pursue the worthy object of the phasing out of private consultation at the hospital. Whatever the Minister may say in this House there is no doubt that the GPMS patients become second class patients where consultations are concerned. Last year we praised the services given by the staff of the department and we have no hesitation once more this year in stating how grateful the people of Gibraltar should be for their dedication.

Mr Speaker, there has been much criticism this year about profiteering in the private sector and in particular in price controlled articles. When one considers that price control is the responsibility of the Minister for Trade and the Consumer Protection Department one has to wonder whether this department justifies its existence.

My Hon and Gallant Friend, Major Peliza, will no doubt have a lot to say with regard to the collapse of the tourist policy of the Gibraltar Government. It was interesting to hear the complete exasperation of the Managing Director of Both Worlds with the Government's lack of ability to attract tourists in Gibraltar. It is time we made the tourist product something which people enjoy and look forward to seeing and we move away from the rather jaded promotion talk of sun, sea and sunshine and move to offering tourists and promoting the real unique values comprised in the history and especially the military history of Gibraltar. It is time too that the Government were more realistic in the use of their London Office and moved away from ground floor premises in an expensive area of London when the Tourist Office could equally fulfil its functions in a cheaper and equally central area such as Victoria and away from ground floor premises. The Tourist Office is under-utilised and could be put to a much better use if properly directed and its responsibilities expanded.

We are pleased on this side of the House to see how well the International Direct Dialling System is working and that at long last Gibraltar, for so long in the back waters of telecommunications due to lack of foresight on the part of the Gibraltar Government, has finally made it in this field. If the Government had listened much earlier to our continuous calls for this service as far back as 1976, the development of Gibraltar as a Finance Centre could have been built up so much more rapidly. The Government should reconsider its imposition of local charges because the increased revenue produced by International Direct Dialling should allow for this to be done.

Mr Speaker, we cannot leave the consideration of the estimates without considering the subsidy given by the Government out of taxpayers funds to the Gibraltar Broadcasting Corporation. The Gibraltar Broadcasting Corporation will receive in 1983/84 a subsidy of no less than £535,800 from the Gibraltar Government or from public funds quite apart from all monies received from wireless licences. In a year when efforts have to be made to protect the Gibraltar economy from the partial opening of the frontier and having regard to the Chief Minister's appeal to the public to restrain themselves in their spending in Spain, it is ironic that a subsidised Corporation should advertise Spanish products on such a gigantic scale. The Gibraltar public is being urged through GBC to buy property in Spain, to buy goods and services and indeed even to use Malaga airport for their trips by advertising cheap car parking at Malaga airport. Is this the way the public interest is projected through the Gibraltar Broadcasting Corporation? The matter of advertising Spanish products over GBC is now becoming extremely serious and we on this side of the House are not prepared to vote public funds to enable the Gibraltar Broadcasting Corporation by their advertising to encourage the public of Gibraltar to spend all that they earn in Gibraltar in Spain. We will accordingly this year, unless we have assurances of a change of policy in this regard, vote against the contribution to the Gibraltar Broadcasting Corporation as a protest to this policy.

We are concerned at the position in relation to improvement and development in Gibraltar. Development has come to a halt and as a result the recession in the economy will continue. The Government is doing too little too late and we feel that the Minister for Economic Development has lacked dynamism in bringing the real problem that faces Gibraltar in this field in a personal way to United Kingdom Ministers. We are astounded that no British Minister connected with overseas development has visited Gibraltar throughout the life of this Government and we urge the Government to insist that the Minister for Overseas Development comes to Gibraltar to see at first hand the problems that his department is causing the people of Gibraltar as a result of the dragging of their feet as far as aid to Gibraltar is concerned. The situation is urgent and requires remedial measures and the Gibraltar Ministers should not hesitate to fly to London whenever necessary to urge and argue the Gibraltar point of view.

Mr Speaker, this in general terms is the attitude of our party to these year's estimates of revenue and expenditure and obviously other Members on this side of the House will enlarge considerably on the headings that I have talked about especially where I have only spoken in very general terms.

In the problems that face Gibraltar during the coming year which is also an election year, we still consider it essential and vital to maintain a real unity of approach by the elected Members of the House and indeed the whole of Gibraltar to the serious problems that face us.

HON A J CANEPA:

Mr Speaker, it is my intention now to comment on the broader issues affecting the economy of Gibraltar, the broader economic issues, since I think that that is what we are obviously mainly concerned with, I am going to be referring specifically to the Development Programme, though not in much detail, since I did in fact make a very comprehensive statement in this House, I think it was a couple of months ago. Suffice to say, at this stage though, that the Hon Mr Restano seems to have forgotten that at the end of September I visited London with the Chief Minister and I went to see the Foreign and Commonwealth Secretary himself, Mr Pym, and it was precisely about the question of the need for development aid that I addressed myself to him in that meeting, pointing out the serious effects that the delays were having on the economy. And Lord Belstead, who though not the Minister responsible for the Overseas Development, is nevertheless very much on the fringe of such matters, particularly as he represents the Government in the House of Lords, was also left in no doubt both by the Chief Minister and by my Colleague, the Minister for Public Works, when he visited Gibraltar last July, about the importance that we attach to the matter. I am happy to say that I think that our meeting with Mr Pym did have some effect because about three months

later came the announcement of the £13m aid for Gibraltar. As far as the then Minister for Overseas Development is concerned, the good friend of the Hon Mr Restano, Mr Neil Marten, whom he met in Fiji, I do not think that the visit from him would have been very productive as I understand that he was never very favourably disposed towards Gibraltar. But turning, Mr Speaker, to the broader economic issues affecting Gibraltar, as I have said so often in the past, the process of economic development is not exclusively confined to a list of projects forming a capital investment programme. It extends to all areas of economic activity and, indeed, to areas of social activity and to how these inter-relate in preserving and promoting the stability and development of the economy as a whole. In other words, there has to be coordinated planning behind how the Government taxes and borrows and how it spends and invests thereby helping to generate employment and to re-distribute income. I make this point with deliberate and particular emphasis this year when the course of the economy is indeed difficult and the constraints are abnormally severe. I think that this is evident from the estimates of expenditure and the revenue measures which are now before the House. Also evident, I hope, is the necessarily cautious but positive approach which we have adopted. Mr Speaker, the economy has reached a crossroads and our very survival as a people and as a political entity are at stake. This is not a time for party political wrangles or for personal gain, it is a time for a concerted effort to put Gibraltar first, second and last from both trader and consumer and from employer and employee. We are perilously near the stage where inward thinking can override communal interests. Where sacrifice, hard work, and change may be resisted in favour of protectionist attitudes, in favour of restricted practices and from purely materialistic obsessions. In this respect I would like to explain how the Government sees the problems and how it intends to give the lead. Clearly, our greatest problem is the future of the Dockyard. The Hon Financial and Development Secretary has already described the current position and the extent of the work being undertaken to enable the Government to take its decision on commercialisation next month. Naturally, the problem is of constant and immediate concern to those under direct threat of redundancy but it should also concern others, notably those who perhaps unintentionally find their attention diverted by other developments such as the current spending spree in Spain. The efforts of this Government on the Dockyard will certainly not be diverted whether the frontier opening is restricted or fully normalised. Those gates hold no real comprehensive basis for the stability and for the growth of the economy and even if they did it would be insecure and almost a surrender of our wellbeing to those who have on so many occasions demonstrated their true objectives and who continue to do so on an almost daily basis. It is therefore vital that if the Dockyard closure proceeds that the alternative should provide a firm foundation for our economic future. If we are to reject an alternative let it be on rational and on defensible grounds. Let us not forget that the British

Government has given an undertaking and that it is prepared to provide substantial financial aid and other assistance to honour that undertaking. I do not see that as a pay-off nor as the price of conspiracy. Let it be clear also that I am not attempting to acknowledge defeat on the stand against closure of the Naval Dockyard. Nor am I prepared to absolve the British Government from its wider responsibility. I am too familiar with the serious economic consequences of closure and with the constraints posed on our development efforts by defence requirements and by frustrating delays on development aid. I wish to highlight the role of Gibraltar Government officials in the project study currently being undertaken on the Dockyard. Their remit goes well beyond a detailed scrutiny of the commercial operator's proposals or the Ministry of Defence stand on the release of Dockyard lands and assets. This is critical because as far as we are concerned any alternative must offer a broad based solution which extends to the future use of land and assets occupied by the Ministry of Defence outside the Dockyard. It must not survive at the expense of other unrelated types of existing activities or industries but should, if anything, supplement or complement them. Above all, it has to offer reasonable prospects for preserving employment and income levels. I hope, therefore, Mr Speaker, that it is clearly understood that whilst we faithfully recognise the British Government's willingness to help Gibraltar, this will not colour our thinking over the merits or demerits of an alternative proposal to the Naval Dockyard. I will now turn to a more specific area which is closely related to the effect of the initial announcement on Dockyard closure and the potential consequences - unemployment. I am very concerned at the rise in unemployment and the trend may not be easily reversed even with renewed development activity. It will certainly worsen if the Dockyard closure proceeds, with or without commercialisation. The Government will therefore have to seriously consider certain steps to mitigate this. These cover a number of areas where we may have to change, for example, our direct employment policy and/or use fiscal means to readjust the opportunities for employment particularly in favour of young Gibraltarians. I will refer to a number of areas. Take the case of re-employed pensioners with high income levels, more so those rightfully enjoying the full benefit of the Social Insurance Old Age Pension or those with two or more jobs, or those households where the contribution of the working wife boosts high household income as opposed to providing an essential supplement to maintain decent living standards. I hope we do not have to consider these adjustments but they may prove necessary in the interest of Gibraltar as a whole and of young people in particular. Social justice may demand that we ensure a fair distribution of our employment opportunities and our income and it is against this background, too, that the cuts in the proposed departmental bills, and I think the Financial Secretary mentioned or was it the Chief Minister, the figure of about nearly £3m, should be considered. That is what we are trying to spell out in a specific manner in the current

disagreement, I won't call it a dispute, over the working of overtime in certain sections of the Public Works Department. I think the questions that are posed, Mr Speaker, are whether we should perpetuate a situation involving earnings of over £200 a week for some whilst others are out of work. Can we also have people in Government employment earning \$8,000, \$9,000 or £10,000 a year doing part-time work as taxi drivers, a point which I made here previously in the House and which I have made with a great deal of passion to the Gibraltar Taxi Association. I do not think we can do that, Mr Speaker, in a situation where if the principles of social justice mean anything, in a situation where there is likely to be increasing unemployment, particularly next year. Therefore, what the Government has tried to do in pruning the departmental bids for expenditure has been to make funds available in the Consolidated Fund in order to be able to transfer them when the need arises to the Improvement and Development Fund to generate work for the building industry, an industry where we have heard there has been a drop of about 22% in jobs recently, from over 600 to 400. This is already in hand with regard to the Rosia Dale Housing Scheme where the Government intends to transfer \$1½m and it is the intention at an appropriate moment and when the need arises to do likewise in respect of further new housing and in respect of schools. I would appeal, Mr Speaker, to Trade Union leaders to realise that they also have members elsewhere, in other industries which have been suffering a recession, such as the building industry, and as they also have members out of work or former members who are now or who may be out of work and whose interests, I think, they also have to look after and they have to weigh up against the interests of those people who for some years have been getting used to very fat pay packets. As I say, Mr Speaker, I do not mince my words as to my interpretation of what social justice is all about and this is what I am saying when I referred to the need for change and the need for obstacles not to be placed in the way of such change, obstacles which are motivated by purely materialistic reasons. Another area, Sir, which has to be closely monitored is the discriminatory frontier opening. Recent events have once again shown that as far as the Spanish Government goes we are still dealing with the same dog wearing a different collar of, perhaps, unavowedly more humanitarian hue. I have never pinned our hopes on an economic bonanza with an open frontier. I suspect that even if it were to be so the Spanish Government will probably try to ensure that it does not materialise. It all vindicates what I said last year about self sufficiency in our essential services. Whatever the high cost might be, our development planning will therefore continue to provide for our own independent supply of electricity and water even if it means higher taxation or higher charges and I hope people will ponder on this when they react to the proposed increases in water service and to the existing burden of electricity costs. Turning to the economic effects of the current frontier opening, I would like to explain that whilst the Government will be

introducing certain measures these will be tailored to ensure that the consumer is not unfairly affected and that those who go to Spain pay as far as possible for the cost of providing those facilities which allow them to do so. It would be foolhardy to introduce measures which will protect not the economy but monopolistic practices in some areas. I hope that trade will respond positively to the new situation and offer a better and more competitive market for their products and not just attempt to excuse their inability to do so by claiming that Government duties are high and charges are also too high. I would not wish to extend price control but it may have to be done if we do not see a fair deal for the consumer in those areas where we have now seen clear evidence of what can only be described as profiteering. The Government has already taken a lead on import duties. It will also continue to offer substantial assistance to the hotel and shipping sectors. And on this question of a lead, Mr Speaker, and of the kind of response that I expect, I want to digress for a moment to say that what I am expecting is in fact a reduction in margins. One would not wish to see a repetition of what has happened recently in a sector of trade which at the same time that it has called on the Government to introduce imaginative measures, has also increased on an item which is in great demand, namely, these small computer games that we see our children around with, these have been increased recently in price from about £7.50 to £12.50. Why? Presumably because they have been in great demand. If that is the way that some traders are going to respond to the Government measures then even if the Government scraps all import duty we are not likely to be competitive and Gibraltar is very unlikely to get a good name as far as its shop prices are concerned. Another aspect of the frontier situation which the Government will follow closely are property purchases in Spain and the possibility that some Gibraltar residents may practically opt to reside there. It may be difficult to control the outflow of capital but again we shall consider introducing other measures to redress the loss. It is also doubtful whether those who take up all or most of their residential time in Spain will be allowed to benefit fully from the services which they or their families enjoy here at Gibraltar's expense. I now move on to the Development Programme. There is little really that I can add to the statement which I made to the House in February. From page 95 of the draft estimates Hon Members will note that disbursements last year were just over £1m. This clearly reflects the effects of the delay which I have referred to on many occasions in the past. Total estimated capital expenditure for this year is put at £10m of which £5.1m relates to ODA disbursements. A further £2.5m of aid funds are earmarked for the following year. These figures, however, will need to be revised upwards in the light of the final allocation of the £13m amongst individual projects. The critical factor on aid project will be the response of the ODA to our application for the funding of two distillers at a cost of some £6.6m although the estimates at this stage only reflect the position for the first distiller. A reply is awaited shortly. An application for the funding of the

installation of the third generating set at the new Power Station has now been sent. Local funding of some £6m this year will be concentrated on housing and on education projects. On housing, the estimates reflect the projected start on Vineyard Stage I, Tank Ramp Stage II, Castle Ramp/Road to the lines Stage II, and repairs to the Tower Blocks. On education, new provision is being made for St Mary's First School. I would also refer to other new projects such as Government offices, the Military Museum and the footbridge at Sir Winston Churchill Avenue. If possible, the Government will transfer further funds from the reserves to fund more housing and other essential developments. This will depend on development, generally, during the year and on how they affect the Government's finances. Our planned borrowing and budgetary contribution to the capital budget amount so far to £11.5m over the next two years. This is substantial by any standards, let alone in the light of our current economic circumstances. Sir, before I move on to private sector development I wish to make some reference to the amendment which the Government is introducing to the Development Aid Ordinance to stimulate pioneer industries. At present there is under the Development Aid Ordinance no provision for granting relief to pioneer or new industries, particularly where these do not necessarily involve the construction of major buildings or other fixed assets. There is also no provision for exemption from payment of import duty on raw materials and having regard to the need which we have been stressing for economic diversification, the Government has considered that the Ordinance should be extended to provide the necessary incentives which will stimulate the growth of new economic activity and it is therefore considered that for the economic benefit of Gibraltar a pioneer company or activity should be granted relief from the payment of corporation tax, from rates and import duty and so the Ordinance will be amended to allow the Minister for Economic Development on the advice of the Committee appointed for the purposes of this Ordinance, to declare any company or activity to be a pioneer company or pioneer activity in accordance with existing criteria. Turning now, Sir, to private sector development. Last year I expressed satisfaction with the progress made on some of the major development schemes and I stressed the important role which is played by the private sector in the field of development. I am pleased to say that despite the difficult times ahead it has been possible, with considerable effort, to maintain stimulus and ferment interest in a further number of important schemes even though the practical results may in many instances not yet have seen the light of day. I always say, Mr Speaker, that I am a frustrated Minister for Economic Development because I keep on bringing projects on stream and because of what I would call the crisis of confidence surrounding the non-event on the one hand of the opening of the frontier and on the other and much more serious, the Defence White Paper and the announcement of the closure of the Dockyard in 1981, there just does not seem to be sufficient confidence to invest in the private

sector of our economy in projects which are of an urgent, touristic and commercial nature. However, I suppose we have to be grateful for small mercies and in this connection the proposed development of the multi-storey car park at Cascades did receive an encouraging response from developers, as the House knows, and although it has been the subject of some controversy with those whom I would term as extreme conservationists, I think it has been welcomed by people as a whole and in particular by the building industry. The scheme will cater for at least 400 cars and in addition will create a complementary centre of commercial activity at the very entrance of Main Street. The successful developer is now in the process of undertaking all the pre-contract work and if, with the help of the MOD, it is possible to provide temporary accommodation for the services families, the scheme which is estimated at some £5m will hopefully get off the ground this year in anticipation of the need to provide permanent reprovisioning. For our own part the Government is trying its utmost to resolve the many problems which are associated with the development in order to secure this important investment in the interest of our economy. As I said before, Sir, a policy of encouragement must be carefully planned to ensure a level of activity which will neither undermine nor overstress the capacity of private sector investment. It must also, as I stated last year, go hand in hand with and complement public development and it must be geared in the interest of diversification at striking a healthy balance between the two. It is with this in mind that the tenders for the development of the Old Command Education Centre at Cornwall's parade have now been invited. The scheme, which Members will recall, was the subject of a wide public participation exercise in May last year, provides for an exciting rejuvenation of old derelict buildings in the heart of our city consisting of cafeterias, shops, offices, open squares and an element of residential accommodation. The scheme is also the first to introduce strict planning guidelines for the public benefit. The successful developer will therefore be required to adhere to a development brief which has been prepared by Government's planning consultants but cutting down abortive work on preliminary plans. In this way it is hoped to attain the highest measure of development control for the benefit of our community. This policy of encouraging private sector development has not only extended to projects which render direct economic benefit but also to schemes of social significance closely allied to the needs of the local population. I refer of course to the scheme launched last year in which a number of dilapidated dwellings have been disposed of by tender to families who had little immediate prospects of finding suitable accommodation but were prepared to alleviate their housing situation through their own efforts. The scheme has enjoyed a large measure of success as is evidenced by the fact that no less than 73 families submitted tenders in the last batch as opposed to 10 families when the scheme was first introduced. The position today is that a total of nine Crown properties have been allocated by tender and when

refurbished by the tenants they should produce twenty housing units of an otherwise wasting asset and at the same time will resolve the housing problem of twenty young families. In order to maintain momentum a further seven properties have been identified for inclusion in the scheme and will shortly be put out to tender. Private sector housing development is also proceeding at a modest pace. In August last year the Government purchased six flats from a local developer for a price of £190,000. This same firm has now commenced development on a site at Euna Vista comprising some twelve dwellings intended for sale. The site was originally awarded by tender to another company which failed to commence development within the stipulated period. The tender was therefore withdrawn and awarded to the company who had also tendered for the site and were anxious to proceed with construction. In doing so the Government gave primary consideration to the need to stimulate private sector development in a property market situation which in these difficult times requires earnest investors and not mere land speculators. Land is at a premium in Gibraltar and it is the Government's intention to ensure optimum use within the existing parameters. Another opportunity for private sector housing will shortly be available with the disposal by tender of a large property and adjoining ground in a prime residential site. I refer to the old Chief Justice's residence at Bella Vista which has been lying vacant for some time and which will be made available for private housing either in three individual plots or as a comprehensive development not exceeding six dwellings. There are also two other sites which will be made available for development for commercial purposes, namely, the old Public Works Department workshop at Library Street and an area of waste ground adjoining St Martin's School which is ideally suited for a restaurant or similar tourist orientated development. By far the most important scheme, however, is the East side reclamation project which I mentioned last year and which has aroused great widespread interest and which would, if it materialises, constitute a major addition to Gibraltar's assets. I have already informed the House on a number of occasions of the state of play to use a cricketing term for my Hon cricketing friend who has a great interest in the project, regarding selection of the two parties whose schemes are under consideration. I do not propose to explain the intricacies of the situation except to say that before a choice is made the Government intends to exhaust all the precautionary steps it could possibly make to ensure that a decision is not only fair but is also for the economic benefit of Gibraltar. It is with that reasoning that the two parties who figure prominently in the international property scene have been invited by Government to investigate the possibility of joining forces either in carrying out the necessary feasibility study or preferably in undertaking all the development from inception to completion. Whatever the outcome, the Government is most anxious to take whatever steps are necessary to ensure that the project gets every encouragement. Before I conclude, Mr Speaker, I wish to pay my own small personal tribute to my

Hon Friend, Reg Wallace. His wise and disinterested advice and his deep sense of identification with Gibraltar has been most noteworthy. I have enjoyed working closely with him, in particular during the last three years, and I have learnt a great deal from him. I know we shall all sorely miss him next year. In conclusion, Sir, I have attempted in my contribution to this year's debate, and that is to this year's budget debate, because that is what the new procedures really amount to, for the first time, I believe, Mr Speaker, to analyse positively and in depth the broader economic issues affecting Gibraltar. I have said that our problems are beginning to transcend pure party politics or sectarian interests. I therefore call on Members of this House to debate these issues dispassionately so that as a whole we may better understand our problems and contribute to that process of consultation which started last week and which will continue with the Dockyard issue in a manner which will redound to our credit as parliamentarians and for the benefit of those whose interests we should be serving in our capacity not just as elected representatives but also as servants of the people of Gibraltar.

MR SPEAKER:

Are there any other contributors?

HON A T LODDO:

Mr Speaker, this is my fourth budget intervention. I have noticed over the last four years a pattern which repeats itself. Every year I have noticed the Government ending up with a larger surplus than they expected and to me, not being an economist, it can only mean one of two things, either that they underestimated what they were going to get from the revenue raising measures that they were going to adopt or that in fact they were over-taxing. I know that this line of argument has been called a bogey, up comes the old bogey of over-taxing. But, Mr Speaker, if it is not one thing it must be the other. At the end of the day if you have more money than you expected it has got to be one or the other. Also, every year, I have noticed that although we vote money under certain Heads, the money is not used up and one would think that here we have a saving but, unfortunately, we do not apparently have a saving because that money is reallocated later on during the year and used up for something else. I realise that the budget of a country, even of a micro chip country like Gibraltar, cannot be as easy as the budget of a household. But still it is food for thought. This year it appears that the Government, rightly so I think, is intent on economising but I wonder how true the picture is. If I could refer to one particular department, and that is the Police, I notice that this year the Police will be spending or are asking for less money to spend on equipment, on uniforms, but at the same time the Commissioner of Police is asking for an increase in the establishment. If you are going to have an increased number of constables you are going to need more equipment and you are going to need more uniforms.

MR SPEAKER:

Unless they are on plain clothes duty.

HON A T LODDO:

Yes, but still we would have to have an allowance. I cannot understand how we are budgeting for less when we are in fact going to be needing more.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I do not want to interrupt in the flow of the Hon Member's speech but I would like to point out that in fact the Estimates as presented to the House do not include the additional provision which will be required for the additional police for which the Commissioner is asking. It came in after the Estimates had been prepared so there will need to be a supplementary later in the year.

HON A T LODDO:

I thank the Hon the Financial Secretary for that explanation. That explains the police. However, I took the police as merely one example, I am grateful. Mr Speaker, I would like to comment on education and I would like to take this opportunity to express my regret that although the Westside Girls' Comprehensive has been operational now for some months, Government has yet not seen fit to open the school officially. I am not saying that because I want an invitation but because I think that after so many years the least we can have is an official opening of such a wonderful school as I understand this school to be and I hope that whatever wrinkles still remain will soon be ironed out. I must also express my regret that on the Education vote we seem to have forgotten completely that inflation takes its toll and we are again estimating the same amount for books and equipment. I even notice that as far as assistance for Youth and Cultural activities are concerned we are down on last year. This is all the more regrettable when it appears that the restraints on overtime and allowances, even with all the exhortation, will still mean £4.3m. Mr Speaker, I believe that the education of our young is our investment in the future. What we put into education is what we will get out of it eventually and what we skimp on education today we just cannot make up tomorrow. Time has gone and the opportunity is wasted. Mr Speaker, talking of time going, time is going and we still have not got our College of Further Education. I believe that this is a crying need for Gibraltar and the continuing hostility of Spain will prove or must prove to even the most blind that we must be self sufficient in every sphere and one of the essential needs, I believe, in our education is a College of Further Education. This is a gap in our educational system which I feel we must close. Mr Speaker, I was very pleasantly surprised in going through the estimates, to

see that for the first time in three years Government's contribution to sporting bodies has been increased by no less than £500. Mr Speaker, I did a quick jotting down of different sports in Gibraltar and if we share them equally between them it works at about £25 per sport. I know that this is an insignificant amount but I welcome it because I take this as an admission on the part of the Minister that he has been rather neglecting our sportsmen of late, certainly within the last three years. Once again we have the proposed Stadium charges coming up. Mr Speaker, I believe at the last budget I asked whether these proposed revenue measures were in fact a promise or a threat and whether they were one or the other they should not be made if the intention was not to carry them out. I believe that now this question of the proposed charges has become a bit of a joke and I would urge the Minister to accept the policy advocated by the DPG of having sportsmen run their own sports. I would also urge the Minister to get on with allowing advertising in the Stadium. In the last budget session the Minister said that he would be implementing this. So far, apart from the odd clock, I do not think I have seen any advertising material in the Stadium. Mr Speaker, I believe I am right in saying that Government is finally becoming aware of the importance of conservation. In Gibraltar we are blessed or cursed, depending on your point of view, with a tremendous wealth of history, military history, primarily, and the visit last year of the Save Britain Heritage Group resulted in a very interesting pamphlet which I would recommend to all Members of the House. I think I said before that in Gibraltar we have been trying to sell the wrong product. In Gibraltar we have been trying to sell sand, sun, sea and sex. It does not matter the order, I do not think it has any relative importance. But in fact, we have had a product to sell, we have been sitting on this product all these years and we have not capitalised. Not everybody who goes on holiday is out for discos and gambling. Well, I hope that the other option is taken up but not everybody who goes out on holiday is looking for the same thing. There are a number of people who derive great pleasure in visiting cathedrals. I have no time for visiting cathedrals but there are a number of people and there are places which capitalise on the fact that they have a number of cathedrals. We have a number of historic military sites and that is what we should develop. Anybody wishing to see a fortified city, a completely walled city, starting from this point I believe would have to go to Avila before he could find a completely walled city, I might be wrong.

HON CHIEF MINISTER:

There has been a trip announced in the paper last week-end.

HON A T LODDO:

Mr Speaker, by this I am not advocating that people should go to Avila, I am advocating that they should come here. We have here a walled city, a fortified walled city, which is something we should capitalise on. We have a product and we should sell it but we cannot sell this product on its own. We must offer the tourist who comes here a continuous supply of electricity, clean streets, and efficient services. I would like to see, Mr Speaker, some form of catering courses, courses in hotel management at all levels, we could do with it. This is something on which my Gallant Friend, Major Peliza will probably expand but I felt I had to say this. I know that the cleanliness of Gibraltar is of concern to us all. Perhaps I look at this problem from a professional point of view, being an ex-Public Health Inspector. Now they call them Environmental Health Inspectors but whether you call them sanitary inspectors it still amounts to the same thing, professional men who deal in public health, and I am alarmed that the cleanliness of Gibraltar is going from bad to worse. I realise that Government is trying to cut down on non-essential overtime and I agree that that should be the case but I would ask, is the cleanliness of Gibraltar not essential? I would like to hear more about what has brought about the present situation. It is not clear in my mind and I would like an explanation on that because I feel that this is not a way to sell Gibraltar. Mr Speaker, this year we have a typical pre-election budget. It is nothing to be ashamed of, I mean, everybody does it all over the world. We have got to have an election within the next twelve months so, presumably, this will be the last budget before the election. This is a typical pre-election budget which everybody does and which there is no cause to feel embarrassed or anything about. But even with the mildest of revenue raising measures, Mr Speaker, there is bound to be justifiable cause for complaint. I certainly have one. What, for example, can the motorist expect for his higher petrol and for his higher road tax - precious little. The pedestrians who now walk up and down Main Street are virtually on an assault course to judge by the state of some of the pavements in Main Street and the kerbstones which are a danger. I have mentioned this before in this House. There are some stretches of road which will do to an old car today what presumably the MOT will do to old cars next year and that is get them off the road. Mr Speaker, whilst still on traffic I do hope that the question of derelict cars is tackled with more enthusiasm and more vigour by the police than of late. Heaven knows we have enough legislation to deal with this problem. We even passed some legislation in this House where it is an offence to abandon a car even in your own back-yard and yet in the last meeting of this House when I asked how many prosecutions there had been there had been none. I would urge the police to act more vigorously in this matter. This is one way of helping to solve the parking problem. Another would be to set time limits for parking in certain areas where it would be convenient to have a flow of traffic. Mr Speaker, I believe there are more ways of solving the parking problem or

helping to solve it, than just going around with unlimited amounts of yellow paint and a four inch brush. Finally, Mr Speaker, I must bring up the point of the Dockyard which everybody has brought up, which is of concern to all of us although we might not all react in the same way. To date, possibly because I am not in full possession of all the facts, of all the studies, to date, Mr Speaker, I am still not convinced of the viability of commercialisation. And if I needed anything to convince me further, the remarks made by the Hon Financial Secretary this morning has confirmed it. I also believe that this is a problem which is too big to be tackled by individual parties. I believe that this is a problem greater still than the problem of nationality and I believe that a concerted effort should be made by all parties, a united front should be made presented by all parties and that a visit to the Mother of Parliament should be made by the leaders of the three parties represented in this House and if need be by more Members, a strong delegation to impress on the British Government the disaster that would befall Gibraltar with the closure of the Naval Dockyard and nothing really viable to take its place. Mr Speaker, that is the sum total of my contribution.

MR SPEAKER:

May I advise any other Member who wishes to speak that they can take the opportunity to speak both on the revenue and expenditure and the revenue raising matters and that I will not of course, when the Appropriation Bill comes along, allow any repetition on expenditure since I think it is right that Members should have an opportunity to speak on both at the same time. Are there any other contributors to the debate now? Well, there seems to be an anticlimax. I am not going to sit here until someone decides that he wishes to contribute to the debate. If there are no others I will most certainly invite the mover to reply.

HON CHIEF MINISTER:

Although I agree that we should alternate, the difficulty some Ministers find themselves in is that their Departments are shadowed by more than one Member and therefore they do not know what is going to be said in respect of the other Department which is shadowed by another Member, hence the reluctance to be able to reply.

HON P J ISOLA:

On our part of the House, equally, it works both ways. We are anxious to know what are the policies of particular departments before commenting on them. I agree that we have problems of debate but there are only six of us here and there are eight Ministers and the Chief Minister has the advantage of the last word as well.

HON CHIEF MINISTER:

Yes, I accept that, that is one difficulty in respect of that. So far as the question of the policy is concerned, of course there is the advantage, insofar as that is concerned, of the Minister being questioned on the particular vote when the time comes for the Committee Stage of the Appropriation Bill.

HON P J ISOLA:

The shadow of the Minister for Municipal Services has already spoken and the Medical and Health Service shadow has already spoken.

MR SPEAKER:

In any event, I am not going to have a debate within a debate as to who is going to speak next.

HON CHIEF MINISTER:

If there is no other Member, I am not asking for any guarantee, but if the Hon Leader of the Opposition says that the shadow on Medical has had his say, well, as the Hon Member was outside I will call upon my Colleague to do that.

HON J B PEREZ:

The only problem, Mr Speaker, is that I was expecting my shadow on Housing, the Hon Mr Haynes, to have listened to his views, if any, on housing before I spoke on the two departments for which I have responsibility.

HON CHIEF MINISTER:

other
There is, of course the possibility and that is that those that have split shadows may well be dealt with in the short, I hope, short debate on the Appropriation Bill.

MR SPEAKER:

Let there be no misunderstandings as to what is happening this year as against what has happened other years. The rules have not been changed. All we have done is that we have suspended one particular Standing Order which says that the Finance Bill should not be read until the Third Reading of the Appropriation Bill but the procedure has been exactly the same. We are now speaking exclusively on the financial measures to be introduced by the Government for the revenue raising enactments. As no other Member wishes to speak on that of course he will not forego his right to speak on the Appropriation Bill but then, of course, I will make very sure that on the Appropriation Bill they will speak exclusively on matters relating to expenditure and not to the revenue raising measures.

HON CHIEF MINISTER:

I am sorry we are dilly-dallying a little on this one but it is very important for the future that we try and get it right in this new procedure because it could save a lot of time in the future. Anyhow, I have a player now. I was hoping that we would avoid a second debate in the Appropriation Bill. If anything happens that has not been touched on, yes, but, anyhow, as I say, I can now field a player.

HON P J ISOLA:

Mr Speaker, we are hoping to avoid the debate in the Appropriation Bill. As I understand it the way we are looking at it is that because the Financial and Development Secretary and the Chief Minister have opened up on the estimates of expenditure and on the financial measures, we are hoping to have one main debate which is this one but we recognise that there could be, I am not quite sure how, I think we will have to learn by experience, some matters that are appropriate to deal with in the Appropriation Bill although we are ourselves looking more to the detailed discussion on the Committee Stage of the Appropriation Bill to bring up particular things. We do not anticipate a debate in the Appropriation Bill.

HON M K FEATHERSTONE:

Sir, we haven't had many speakers from the other side but from what I have heard I quite agree the streets of Gibraltar are dirtier than ever because they have thrown out such a lot of rubbish and it is going to take a lot of cleaning up to get rid of it. The Hon Mr Loddo made a very interesting statement in which he said this was a typical pre-election budget. Well, Sir, I would rather take issue with him I think, if anything, it is almost the antithesis of a pre-election budget. There has not been, as is often claimed by Oppositions, a vast give-away in a pre-election year. Had we wished to do that sort of thing and it is not normal with the GLP/AACR Government to make give-aways, so much so that I can remember on three occasions that we have gone to elections, partly in this House and partly in the City Council, following completely strong revenue raising measures but the electorate have still returned us. We could have given away quite a lot had we so wished it on income tax and yet we have held firm because we feel that this is not a year in which we can afford to make large give-aways. This is a year, Sir, in which the watchword has got to be the most careful use of money in our economy that we can possibly make. The possibilities of a difficult situation arising possibly from January onwards with the closure of the Dockyard, and who knows what is to take its place, and if something does take its place at what level, especially at what level of employment, may mean that a considerable number of people perhaps and hopefully only in an initial stage, but perhaps for some time may be thrown on to the unemployment market with the result that,

firstly, they will need to draw money from the Unemployment Benefit Social Security Fund and not contribute anything towards the exchequer by way of income tax paid and should they remain unemployed beyond the normal period in which they obtain Social Security Benefit, then they would come on to the Consolidated Fund through Supplementary Benefits etc. And so, the whole gearing this year has been that it is considered that revenue will not be as buoyant as it has been over recent years. The comment has been made because revenue occasionally, or to some small percentage has been a little more than estimated, then either Government has overtaxed the people or has not estimated properly. Well, Sir, I would classify that as one of the pieces of rubbish that the street sweeper will have to pick up in due course. I will be somewhat parochial, Sir, and speak basically on the economic effects in the Public Works Department. We have had a number of comments, some of them with a little justification, some with no justification. We should give credit where credit is due and basically the normal output of the Public Works Department is something which in the main can be taken to be relatively satisfactory. I give you one example over recent weeks which nobody yet has given any credit to the Public Works for, the work of relaying a whole water main plus other service mains down Prince Edward's Road and the re-surfacing of the road itself. This was scheduled to be a 4 month job, it was completed in 2 months yet we have not heard or seen in the press or on Gibraltar Television anything saying that a good job of work has been done by Public Works and I feel proud to be able to stand up and say that the people concerned have made a very fine effort indeed and Gibraltar should be grateful to them because, firstly, not only have they done a good job of work in itself but they have cut down to the minimum traffic interference where traffic had to go a difficult way round rather than through the simpler method of Prince Edward's Road. Here is an example of men rising to the occasion when it is necessary. But, Sir, I think I would be failing in my duty if I didn't bring to the attention of this House the situation that does appertain in certain Departments of the Public Works, not all by a long way. Of the 900 odd men employed in Public Works a good 500 or more of them have very little overtime at all but in some of the Departments the level of overtime is quite considerable. The Honourable Financial Secretary in his speech mentioned figures of overtime of £25 a week. Well, Sir, in some of my Departments the figures of overtime are considerably in excess of that.

HON P J ISOLA:

He doesn't wish to give any figures as to how much more.....

HON M K FEATHERSTONE:

I shall come to some of the figures in due course. And because it was essential this year owing to the need to keep our finances as close to the estimates of revenue as possible, we had to, as the saying goes, cut our suit according to our cloth and we had a very good look at some of the areas where there was a large

amount of overtime, and the first area which came to our perusal was the area where refuse is actually burnt at the Refuse Destructor. Here the average wages being paid were some 89 hours per week and as I think I have already commented in the press, the wages which were on a basic wage of £85 to £90, were with overtime running between £170 and £200. This is well over £100 in overtime. The first effort made by my Department with regard to this section of the Public Works was to say that the amount of overtime which would still be substantial, was to be reduced to a figure which was considered to be reasonable. This would still have given the men a very good take home wage. I think the £200 wage would have dropped to about £160, and £170 wage would have dropped to about £145. But the result was that the men for reasons best known to themselves, said: "Either we work as we have worked before, or we will work on a purely 39-hour week. This they have every right to do because overtime is something which it is the employer's privilege to offer and the employee's privilege to refuse. And so the situation was that the men decided to work on a 39-hour week and we are having some difficulty in being able to dispose of all the refuse. We have the willingness to offer a slightly increased measure of overtime but still not as much as they were getting before and whether the men will come to this agreement or not we do not know. Some informal talks have gone on but it does seem to some extent that the men are rather adamant in saying all or nothing and it may be for Government to consider whether if no agreement can be reached on a very favourable measure of overtime in the near future, whether a two-shift system should be put in based on 39 hours a week per shift which will be able to cope with the need for burning and which although it will mean for the men who on their own volition are opting to work 39 hours, will mean less pay for them but will mean the taking on of extra men and the cutting down of unemployment. This can be repeated if the urgency for further employment should arise in a number of areas where men are working 35, 40, 45 hours of extra paid overtime such as in the distillers, pumping stations, emergency service, areas which in themselves are not large but where the amount of take-home pay is in many instances £60 to £75 above basic wages. If the cake that is available has got to be shared more equitably than I would think that this is the correct way in social justice to meet the case. We cannot have some people earning a very large amount of money, much of it on overtime and other people suffering not only the degradation of unemployment and the shortage of cash that comes with it, but the fact that they have to see perhaps their neighbour almost rolling in luxury whilst they are suffering deprivation. Regarding the street sweeping, Sir, here again we decided that some overtime cuts were to be made. Perhaps we went a little too far and we are now looking at the situation to see if we can give a measure of overtime so that at least the central area of the town can be swept on a Saturday and a Sunday but I think, and I say this as a considered opinion, that the Gibraltarians, we are a dirty lot. We throw rubbish away, we put rubbish out of our shops indiscriminately without any thinking whatsoever whether it is going to create a mess or not. I am not

saying we should be draconian as the Government was in Singapore where I understand that even to throw a cigarette end costs you a fine of £25 to £50 but I think we could take a leaf out of the book of the people of Singapore who have one of the cleanest cities in the world from what was one of the dirtiest cities by not throwing rubbish out so indiscriminately as we do. Over the last 2 weeks in which it has been common knowledge that there was no road sweeping and no collection over the week-end, people still pushed out from their shops, from their homes all sorts of rubbish knowing full well that it was not going to be collected and over this week-end with rain threatening, knowing that it was going to make a nasty pulpy mess.

At the same time, Sir, I must lay a certain measure of blame on the part of those people who are not willing to allow machinery to assist in cleaning the roads. We bought a special machine of which I was asked the question I think earlier in the House when we met at the previous part of this session. This road sweeper has the ability of being a flexible machine and was bought with the idea of assisting at any area where it was required to help in cleaning and unfortunately this has been resisted and the machine is now being blocked. I think this is a very unfortunate and sad situation and I would hope that the Unions would realise that where machinery is provided to assist in keeping the place clean at no redundancy of labour whatsoever, then it should be welcomed and it should be used to the greatest extent possible. I would hope that sanity will prevail and that this machine will be able to be used in the Main Street to help out cleaning as and when required. A remark was made by the Honourable Mr Restano against the Public Works Department which was apparently alleged to have made a large number of reallocations of cash commonly known as virements. Sir, where you deal with a Budget of some £7million, I do not think that one can estimate to such accuracy that you cannot have between separate departments variations of one or two percent. Some will spend 2% more than was estimated, some will spend 2% less. Why does this arise. All sorts of reasons, not least the number of men who decide to take unpaid leave, and so their salaries are not paid and the department finishes up with some extra money. On the other side, you get departments which get extra expenses coming along, perhaps the need in the Roads Department to do up something urgently and it has to be done on overtime because it is of an urgent nature, and so they tend to overspend a little. And so the money is reallocated from one department to another. What does it come to? Even if it is 2% of the total budget it is a minimal amount, and to say that this is proof of poor management, I think is one of the most fatuous statements that has been made so far. I regret, Sir, at this moment, I cannot give you the water losses for last year. As far as I understand from my department they are being contained quite satisfactorily with the consistent efforts being made by night testing and it is hoped, and I will if I do get the figure later in the meeting bring it to

the House, it is hoped the figure will be if not as good as last year's figures, which I believe was 13%, somewhere within the 15% range. It is not water losses which is causing the increase of price in potable water that we are putting this year, it is simply, as I am sure the House well knows, that the cost of production of water over the last year has risen very considerably. The marginal cost of water last year was around the \$3.75 figure but, unfortunately, everything that is said in this House is noted and is acted upon by outside sources and our friends the other side of the Straits who supply us with a quantity of water, heard what our water figures were in Gibraltar, heard what prices were for distilling of water and thought that the water they were giving to us was far too cheap and they were going to climb on the bandwagon and they gave us an increase of something like 60% in the cost of our imported water. This has made a very great strain on our economy, so much so, I am sure the House will remember, I had to come for supplementary appropriation during the year to pay for this increased price of imported water. At the same time inflation has taken its toll and the cost of distillation has gone up some 10% with increased oil prices and increased prices of chemicals which I am afraid suffer very seriously from inflation. It is to be hoped, Sir, that in the coming year the price of distilled water may be reduced once we get into operation the waste heat boilers from the generating station and should this be the case then I would have every hope that there would be no increase in water prices next year. This is not a promise as such, perhaps we will be here to implement it again, I am sure the electorate will return the same Government, but I would sincerely hope that whoever has to make the decision, if they get the waste heat from the boilers, then with distilled water prices dropping, the need to increase water once again may be contained. The actual increases are relatively small, roughly about 10%, it still leaves water that is supplied to the domestic consumer very heavily subsidised, the average family will be paying for domestic water at \$1.90 a ton whereas as I say the marginal figure is somewhere today around \$4 per ton so the domestic consumer is very reasonably treated. Of course, if the domestic consumer is a heavy consumer and goes into the secondary figures, then he is going to pay around the marginal rate. Water will still be subsidised by the general exchequer to a reasonable extent around \$100,000 and this is considered acceptable. Speaking on development, Sir, over the last year the figures that were put into the Development Programme were in comparison to previous years considerably restricted but they were as far as Public Works was concerned, about \$4½ million. Did we meet that figure? Well, Sir, in previous years we have always been a little bit underspent but this year, perhaps the Honourable Financial Secretary would rap my knuckles for it, but we actually overspent, we spent on the development programme 102% of what was actually estimated. So we met our commitments as far as the development programme went and now in the coming year we look forward to an enhanced programme in which spending once again will return to the figure that we have worked on in the 2 years previous to last year, somewhere around the \$10 million mark and we are

geared up to be able to spend this. Development is, of course, one of the ways in which the Government can push a boost into the economy and one of the things that has been done this year is to transfer into the Development Fund a reasonable sum of money from the Consolidated Fund. I remember some 8 years ago when we transferred a much more modest figure of I think \$½ million, there was a tremendous explosion, especially from the Honourable Mr Bossano, who mentioned at the time that he felt that development should be pushed on by use of raising of loans, etc. Well, we have raised loans this year, we are raising loans again, but we are also pushing some money in from the Consolidated Fund. I am sure that this time the Honourable Mr Bossano will see it in a much more reasonable light and we will not have the long harangue that we had last time. I think, Sir, that we have to accept within the constraints of perhaps a diminished amount of revenue this year, Government has taken a realistic approach towards the situation, has tried to contain expenses within what they hope to be able to meet without running into deficit budgetting, something which I think we must avoid at all opportunities, and I would hope, Sir, that given a modicum of luck, and perhaps a happier out-turn with the dockyard situation than many people foresee, our revenues will be if not as buoyant as on previous years, at least able to meet our requirements for this rather difficult year that we see ahead.

MR SPEAKER

We will then recess until tomorrow morning at 10.30 when we will continue the debate.

The House recessed at 6.55 pm.

TUESDAY THE 19TH APRIL 1983

The House resumed at 10.40 am.

MR SPEAKER:

I will remind the House that we are still on the debate of the Second Reading of the Finance Bill and the last speaker was the Honourable Mr Featherstone and any Member who wishes to contribute to the debate is now free to do so.

HON J B PEREZ:

Mr Speaker, yesterday I listened very carefully to the points that were made by the Democratic Party of British Gibraltar and it appears to me that for the Opposition, who so claim to be the alternative to the GLP/AACR, to the Government, I must confess that I saw no signs at all, Mr Speaker, of any alternative policies or strategies coming from the Members opposite. In fact, to be perfectly honest, I consider that what in fact I heard happened to be and to show a complete and total lack of understanding of the present economic situation in Gibraltar.

The DPBG accused the Government of having a pre-election budget and I think, Mr Speaker, this is totally erroneous and inconsistent.....

MR SPEAKER:

I do not think they said it was a pre-election budget, I think they have all said it very clearly that the budget had been prepared in the knowledge that it will be the last one before the elections.

HON CHIEF MINISTER:

What was said was that it was geared in a way to take the greatest advantage at the next election.

HON J B PEREZ:

The point I am trying to make, Mr Speaker, if you will allow me to continue, is that I find that that criticism would be valid if, in fact, the Government in its measures was giving a lot away this year. But, on the other hand, how can the Opposition criticise the Government for a pre-election budget when on the other hand they are asking the Government to increase personal allowances, to reduce direct taxation, to slash across the board import duties and also to take away taxation from Old Age Pensions. Because the Government has not done that the Opposition are accusing us of presenting a pre-election budget and yet we have not done any of these things. Surely, that means, Mr Speaker, that there is no question of any thinking on the Government side in presenting the budget, thinking of the election which is to be held within the next year. I think the approach of the Government has been a conscientious one and I consider it to be right for the general welfare of the community. I think the measures that have been announced have been taken irrespective of popularity and in my opinion, Mr Speaker, that is what Government is all about. I think to do as advocated by the Members opposite would be totally irresponsible under the present economic climate which surrounds Gibraltar. I think, Mr Speaker, it is regrettable that the Opposition, having accepted the scenario which has been put forward in this House by the speakers on the Government benches, says that we have to be bolder in our measures and in my opinion, as I said already, I don't think this is the time to gamble with people's money. I think Gibraltar is at a critical stage, there are many, many uncertainties and the serious problems which we are going to have to face in this financial year and therefore although measures which may appear popular like increasing personal allowances, reducing direct taxation and slashing across the board import duties, although popular for the forthcoming elections I think would be disastrous for the general economy of Gibraltar. Before considering in greater detail, Mr Speaker, the actual fiscal and allied measures which the Government announced yesterday, I think one has to consider carefully

what the present economic climate is. Last year, Mr Speaker, we had to look at three main points concerning the economy. The first one was the question of the dockyard, the second thing we had to consider was the question of development aid and, thirdly, we were speaking about the possible opening of the land frontier. The Government stand last year, as on this occasion, was one as announced by the Chief Minister, of caution, prudence, and one of consolidating our position in view of the uncertainties that Gibraltar is to face. I think, Mr Speaker, that the uncertainties and the problems are still here with us today and, in fact, I think in certain aspects, they are even more critical than they were last year. As far as the dockyard is concerned, the change from last year, the difference in the position is that the date of the closure was deferred to the end of the year, the British Government seems to be totally unmoved, their minds have not changed as to the closure. However, they are still committed to helping us to provide a viable alternative, the preferred operator has been chosen and the Government is closely looking at the viability of these proposals and as has been announced already, a decision will have to be taken shortly, possibly within the next month. I think, Mr Speaker, that the uncertainty not only remains as far as the Dockyard is concerned but I would say that the day of judgement is drawing nearer and in fact I would reiterate the words which were uttered by the Financial and Development Secretary when he said that in his opinion commercialisation on its own is not a viable alternative. As far as the development aid aspect is concerned there is a slight change this year and that is that a sum of £13m has been granted. I think by no means will these £13m solve all Gibraltar's problems and in fact it is quite clear that we shall have to borrow money, in fact we are transferring £12m from the Consolidated Fund balance to the Improvement and Development Fund in particular for the building of housing. As far as the third factor is concerned, the question of the frontier, in my judgement, Mr Speaker, I think the position this year is worse than it was last year because the frontier has been opened in a manner which is clearly detrimental to our economy. There are many reasons or justifications which have been put forward for people spending money in Spain but the fact remains that rightly or wrongly the amount of money that is coming into Gibraltar in no way compensates the money that is being spent in Spain. I think, Mr Speaker, that the Government has shown leadership on this particular aspect, it has announced that measures will be taken after consultation with the Opposition but I think, in all honesty, that at the end of the day it really depends on all of us in Gibraltar and not just on the Members of this House of Assembly. As far as this factor is concerned I do not think one can blame either the Ministry of Defence or the Overseas Development because I think this is an internal factor and it is really up to all of us here in Gibraltar. As far as the Dockyard is concerned we can blame the Ministry of Defence, we can blame the British Government, as far as development aid is concerned we can do likewise but as far as the amount of money that is being channelled out of Gibraltar into Spain, I think we can only blame ourselves. Last year I think it was the Hon Mr

Bossano who criticised the Government for presenting its estimates and for looking at the situation solely based on a Dockyard economy and I think that that is incorrect and in particular this year the Government has looked at other alternatives, the Government has looked at tourism, at the port and the allied services, we have spoken about the commercial yard, we have looked at the question of exports from Gibraltar, we have looked at manufacturing and light industries, we have considered the question of Gibraltar being set up and being promoted even further as a financial centre and I think, Mr Speaker, that most of the measures which the Government announced yesterday are in fact aimed at these particular, as I term them, alternatives to a Dockyard economy. As far as tourism is concerned there is one point that I would like to stress although I am sure my Hon. Colleague, Mr Zammit, will deal with it. The Government in fact favoured and represented to the Civil Aviation Authority that the Government welcomed and was supporting the application which was made by Air Europe to provide a scheduled service to Gibraltar. Members of the House have heard the load factors which have been put forward by the Financial and Development Secretary which have been extremely high in this last year, in particular the first I think was January, February and March which showed a record load factor to Gibraltar of around 95% and the Government supported this. The problem appears to be, Mr Speaker, that when one considers load factors if one allows another scheduled operator, the load factors must of necessity come down for all and then what the Civil Aviation Authority has to consider is what is the break even point for a scheduled operator as far as load factors is concerned but again the Government supported the application and welcomes the approach from Air Europe who although they have been refused to operate a scheduled service from Gatwick nevertheless they are prepared to do so from Manchester. The Government is willing to help and is actively trying to help scheduled operators into Gibraltar because I think the fundamental thing, the fundamental approach is that from experience one can see that the more seats that are offered to Gibraltar the larger the number of people who will in fact come. Also as far as the port is concerned, my Colleague Mr Canepa announced certain measures which are being taken. As far as the financial centre is concerned legislation has been enacted in this House to try and develop this aspect of our economy. What are the measures which the Government have taken? First of all, we must remember that we did reduce the import duty on cigarettes. We have also reduced the rate of duty as far as small inexpensive items are concerned and I am sure there is no need for me or for any Member on this side of the House to explain to Members opposite why in fact we are really looking at small inexpensive items. Clearly, Mr Speaker, that is to benefit traders and of course to boost tourism. Perfumery has been reduced from 25% to 12%; jewellery from 21% to 12%. The export tax on fuel oil has been reduced from 54p to 27p. That is a substantial reduction and was done because we have found that in the last year there has been a decrease in the number of

ships which have called into Gibraltar for bunkers, that is done with an aim to promote Gibraltar and to help the economy. We have also introduced a duty on metal and wooden doors and frames, that is to protect local industry. We have also introduced legislation or administrative regulations as far as GG plates are concerned. We have looked at the question of development aid in order to provide relief and to bring within the Ordinance expensive capital equipment which certain firms may require to import into Gibraltar to carry on their business here. That, again, Mr Speaker, is aimed at helping the economic situation. As far as the increases are concerned, as far as the funded services are concerned, it is quite clear that we will have a deficit of £2.3m and the Government policy is two-fold. (1) we must be self-supporting as far as these funded services are concerned, we cannot rely on Spain to provide either our water or electricity and if the consumer has to pay, well, we will have to pay for these services if we want to be self-supporting and self-sufficient. Again, as far as the hotel industry is concerned, as far as the electricity undertaking is concerned, although there has been no increase, the discount to the hotels will continue provided they pay their bills within thirty days. As far as water is concerned to the hotels the increase has been from 50p to 55p but the subsidy of 15p per unit will continue if the bills are paid within thirty days. I think, Mr Speaker, that all these measures show a very determined effort by this Government to protect the general welfare of the whole of the community. Mr Speaker, I would now like to turn to the two Ministries for which I am responsible. As far as the Medical and Health Department is concerned, Members opposite will have noticed from the estimates that there is an increase in staff of eight. I do not think there is any need for me to outline the particular eight posts because in Committee Stage no doubt questions will be asked if the Opposition so wish. But I think I ought to say that as far as supernumerary staff is concerned, both Doctor Borge and Doctor Correa are doing extremely well, they are both in UK and it is expected that within the next two or three years they will be coming back to Gibraltar and taking up the post of fully fledged consultants. That is, again, part of the Government's policy of localisation of top jobs. Furthermore, Mr Speaker, we have taken on a number of trainee posts in the department such as the occupational therapy, physiotherapy and speech therapy and the purpose of this is to recruit candidates who can after a short period of in-service training here in Gibraltar proceed to train in their respective disciplines in the United Kingdom and subsequently return to Gibraltar to take up appointments locally. In fact, most of the posts are already filled and it is hoped that the remaining posts of trainee occupational therapist will be filled very shortly. On other matters of general policy, Mr Speaker, I ought to mention that as far as the Medical Department is concerned this year we reached a new agreement with the Scheme Pharmacists as to the method of payment. The method of payment is now on a 28% on cost on the wholesale price of

medicine which is supplied on prescription. I think that this system will not only benefit the chemists themselves but it would provide the Government with a much simpler costing system and lesser need for periodic reviews. Another very important aspect of the Medical Department and which I am pleased to announce in this House, is that following a visit to the United Kingdom by members of my department, as far as the reciprocal agreement was concerned the quota of forty patients has been maintained but we have been given the option for this coming year to select the forty patients which we want to send free of charge and to select these patients whom we wish to send over to the United Kingdom for treatment which cannot be given here and to elect to pay at National Health Service rates. This means that as far as the Government is concerned we will be able to send the more expensive, the more specialised treatment which is required within the quota of forty and elect to have people who are required to go on a second visit, that is, they have had their treatment in England, they come back to Gibraltar, they are required to go back in a month's time, in that particular situation we will elect to pay at National Health Service rates and that individual will not take up one of the forty which is allowed in the quota and I think that is beneficial to the Government's finances. I think apart from that all I would like to say as far as the Medical Department is concerned is that the department is working extremely well and I think this is obviously due to the very hard working staff of the Medical Department, both the non-industrial and the industrial staff. As far as the Environmental Health Department is concerned, that department is also working very well. Members will recall that last year we had not an epidemic but we had a number of meningitis cases. I think the department dealt with the matter extremely well in that they spared no effort in trying to locate the people, the carriers, in giving out tablets to the people and to all the contacts and I think they worked extremely well. As far as my other department is concerned, Housing, Mr Speaker, in the last year we were able to carry out certain changes in this department as far as the allocation of houses was concerned. The waiting list was published making a total of fifty people in each category. We started with a medical panel, a medical panel has been set up which I think will help those persons who are on the medical category list and the last thing that the Government did was in fact to transfer the responsibility for the allocation of all Government owned houses, both private and post-war, to the Housing Allocation Committee and the Advisory Committee. I think as far as Housing is concerned, Mr Speaker, the Government is well aware of the serious housing problem. The Minister for Economic Development has outlined the number of new projects which the Government has planned but of course one must take into account the financial constraints that we have and although one would like to build another Varyl Begg Estate, the reality of the situation, Mr Speaker, is that we just have not got the money to do that. I think, Mr Speaker, to wind up that I would reiterate that in my view from what I have heard from Members opposite, there is a total lack of understanding of the Government's economic situation and I would

urge Members opposite to think very carefully of the problems that we are going to face at least in the next year and to try and be more constructive in this House and try and help Government in its efforts to look after the welfare of the whole of the community.

HON W T SCOTT:

Mr Speaker, I think in the first instance I ought to associate myself with the words already said dealing with the work done over the years he has been in the House by the Hon Financial and Development Secretary. I think on a personal level he has always been so helpful and courteous to me and I think a sadness is that if he had waited perhaps one further year we would have had the distinct honour and privilege and perhaps himself the benefit of having prepared a budget for my party. Mr Speaker, the picture generally to me anyway on the draft estimates seems to illustrate an attempt to cut back at general expenditure but restricted to Heads or to items which are not in the emoluments Heads. One thing stands out quite clearly, in fact, and this is a picture that has been building up over a number of years and that is in some departments the very excessive levels of overtime which to me seems to illustrate and has illustrated over a number of years a need for recruitment in certain departments. There are perhaps a few of them that stand out like the Prison Department as has already been mentioned by my Friend in his policy speech earlier yesterday. On the Police an attempt was made last year to cut down on overtime but it has got back in again this year, and there are several other Heads. Let us face it, Mr Speaker, we are only talking about non-industrial. The picture on industrial is unknown to us other than that which was said dealing with the 900 employees of the Public Works Department mentioned by the Minister yesterday where some levels of overtime had reached something like 89 hours of work. Mr Speaker, I would have hoped to have seen some sign of new initiative in this budget, in the draft estimates. I would have liked to have seen, for example, a new initiative at creating jobs for young people, stemming the flow of the unemployed. We on this side of the House over quite a period of time now have been asking questions of the Minister for Labour and Social Security about the possible introduction of a Youth Opportunities Programme. We feel that his department, the Youth and Careers Office and certainly the Construction Industry Training Centre which started a pilot scheme on the initiative of Members on this side of the House some years back, that Centre is so under utilised that it could very well extend its sphere of operations to take in and help stem this flow. In the United Kingdom only very recently, that Youth Opportunities Programme which I think was introduced by the Callaghan administration, has recently been changed, its name has been changed and several new things that have been brought into it. It is now called a Youth Training Programme and it encourages employers to take young people in and one of the benefits to the employers is that the State itself pays the salary or wages of the young person.

It creates opportunities for young people and it also helps the employer. All that seems to have happened, Mr Speaker, up to now as far as this particular figure is concerned, is just a piece-meal approach, a piece-meal approach by the Minister. I would also have wanted to see, Mr Speaker, a further investment by Government on micro-computers because we are living in an age, Mr Speaker, where the rapid advance of technology is going to dictate, and I use the word unreservedly, is going to dictate the way our lives will be shaped in the very near future. A welcome sign on this over the last year was the purchase of a micro computer by I think it was the Supreme Court, presumably to help with the register of companies and only in the last few weeks, I understand, the local Department of Education has invested in some 8 or 10 or 12 micro computers for the two comprehensive schools. I would want to impress, Mr Speaker, upon the Minister responsible for education not to restrict himself to the two comprehensive schools, not to restrict himself to having 4 computers to each school in a classroom of 40, each child must have one in that class, and we are not talking about £2,000 or £3,000 per machine, the cost in fact can be quite minimal, we can go down as low as £50. But there again, Mr Speaker, that initiative is not there as far as other departments are concerned. I feel, for example there is a prime need, and I know this, in the Economic and Statistics Planning Unit at least to help and accelerate the process of analysing the employment surveys which I understand takes 2 or 3 highly trained people a considerable amount of time to draw up. Mr Speaker, the Honourable Minister for Economic Development and Trade rightly said yesterday how I had had a particular interest in the East Side development and how at every single opportunity that I have in this House I do ask for more information, the state of play and so on, and I did warn him I think on the last occasion or the occasion before that, that a development of this size has to take place very quickly if the interest of the developers is to be maintained. There seems to be some difficulty in Government deciding which of the two offers could be the more beneficial and there was a new initiative as explained by the Minister yesterday. Well, I believe I heard some time ago of another initiative and quite frankly I do not know what happened to that, and that was that they weren't going to enter into a joint venture partnership, it might not be interesting to a developer to do that, they perhaps want all of the cake, not half of it. I remember an initiative that was mentioned to me, I do not think I am giving away any confidences, of the necessary costs of the next stage in the tendering procedure being met in the final analysis by the successful tenderer so that both tenderers could extend the amount of money required to come up with a realistic offer, a realistic development, and spend the money necessary on the hydrographic surveys and so forth, whilst still ensuring that at the end of the day should he not be successful he would not have been penalised financially. Mr Speaker, I would like to emphasise how essential it is to move into this direction and move into that direction quickly because otherwise we might well find ourselves in a

situation where we have no developer interested because that money that he wants to invest in that development might well be required by him somewhere else in another development that suddenly crops up in another part of the world. Mr Speaker, as far as the individual heads are concerned, just general comments, I think will ask specific questions during the course of the Committee Stage, is that we have now reached a level in the Consolidated Fund where it is only marginally below the traditionally largest head of expenditure which is Public Works Annually Recurrent. It is interesting to see, Mr Speaker, and to have heard the Honourable Minister for Medical Services talking about £13million development aid spread over a period of 1981/86. Quite interesting because if we look back in the recent past we see that the electricity generating station is costing something like £7million, all of that money which has been not raised but borrowed by the local Government. But let me add, Mr Speaker, it is not £7million that it has cost the taxpayer of Gibraltar, I think it is nearer £14million. That is effectively, at the end of the day, what it will cost the Government, £14million, which is in excess of what we have had from OEA, and we will have that debt to pay for many years to come and that Head increases every year. I am not saying it shouldn't, I am not saying that, what I am saying, what I am bringing up, is the inordinate rise in that head. It has now reached a level, Mr Speaker, where it is just marginally under £7½million, whilst in 1981/82, when it had already risen sharply, it was just under £4½million. Mr Speaker, I think I am right in saying that the interest alone on that borrowing for the electricity generating station is costing us almost £1million a year and it is rather peculiar because if we accept the figure of £18,000 a week which between the Steering Committee and the contractor running one engine down there is costing us £16,000 plus £2,000, we reach an annual figure of precisely almost another million pounds. So we have a million on interest, let alone repayment of the loan, and also almost another million as a result of the mismanagement of the Electricity Department. Mr Speaker, we have had a new Principal Auditor now who has submitted his first report and I think it would be less than is fair of me not only to congratulate him on his report but also to pass some comment through omission. It seems rather peculiar to me that the largest Head of Expenditure of the local Government has not had one word mentioned in that Report by the Principal Auditor. The Public Works is not mentioned at all. That seems to me rather peculiar and very strange. I do not know if there are any hidden secrets somewhere, Mr Speaker, a comment that he does make which is perhaps alarming to us and there might be valid reasons why this is so but the comment is still there and that is Bland's Cablecar. There seems to be a certain misunderstanding or lack of communication between several Departments of Government because that Cable Car system has not had the required test or inspection by the Public Works. I understand the Director of Public Works is the Titular responsible for such tests, for quite a number of years now, and with the increasing use of that cable car one shudders to think if the requisite tests and inspections have not been

carried out what could possibly occur and I would urge Government to act rather quickly there and to take heed of the comments of the Principal Auditor. Mr Speaker, I was rather staggered in fact, by what the Honourable Financial and Development Secretary said yesterday when he apportioned the figure to the costs of maintaining the frontier, both presumably in police and customs, the figure was £5 million a year. I think, Mr Speaker, again we are bringing into this debate the very excessive levels of overtime worked and when one works overtime, let us make no mistake about this, Mr Speaker, a good proportion of that work is non-productive. There is a clear case here for more recruitment should the Government think that the frontier is going to remain open. Mr Speaker, I would also have expected to have seen within the Department of Labour and Social Security a rise in family allowances because in the Budget where Personal Tax Allowances were raised and also the tax allowance for the first child was raised, there was no commensurate rise in family allowances to bring parents having more than one child, to bring that second and subsequent child or subsequent children to the same level of the first. I brought this up in fact last year and the Chief Minister, and it is a matter of record in Hansard, did tell me that that had been taken account of but with respect to the Chief Minister, it was not. Last year, at this stage, I mentioned that there had been no commensurate increase in family allowances to bring the second and subsequent children to the same level and equivalent to the tax allowance for the first child. This, in fact, was never done. When the tax allowance was raised, I forget whether it was last year or the year before, there was no commensurate rise in family allowances and at the time that I mentioned it last year the Honourable and Learned Chief Minister said that it had been taken into account, but in fact it wasn't. It was not last year, Mr Speaker, and it has not been this year either. This seems to me a discriminatory attitude taken by Government to larger families. I am left with no other impression other than that. On the Port at least the Government is fully aware of how Members on this side feel about the origins of the pilot boat. Mr Speaker, I am also rather concerned about the Public Works when I see that the money allocated for apprentice training is down and yet we are blaming MOD in closing the dockyard and not providing enough apprentices and we have got ours down. Shouldn't we look a little bit more into the future and help ourselves by providing even more skilled people? It is surprising, Mr Speaker, because apprentice training is down and the Government tries to encourage people who have not been awarded an apprenticeship to undertake a one-year industrial training course. Shouldn't it be the other way round? Shouldn't we be encouraging, shouldn't we be providing more apprenticeships? Mr Speaker, in the Financial and Development Secretary's original contribution he did say that the world economy, the rate of inflation had been stemmed to a very large extent, one of the main factors being the stabilising and the lowering of oil prices. We have mentioned this before Mr Speaker, this is not reflected in these estimates on fuel costs. There is no reflection of that here and I do not know whether Government ought to either look elsewhere or renegotiate the particular

agreement or contract that it has with its fuel supplies. I think it ought to have a very close look at this because it seems to me that oil prices everywhere seem to be going down, down to the extent that the Honourable Financial and Development Secretary says it is mainly responsible for stemming the flow of inflation and here we are in Gibraltar paying what seems to be more than ever for fuel. Mr Speaker, there is one comment I would like to pass on Housing and that is that a point of principle. There is a sub-head that deals with housing estates and staircase lighting and the sum is quite large in fact, it is over \$65,000. I would have thought that this would have been down to the tenants themselves on a collective basis through a communal meter, if you like, and the rent being adjusted accordingly or the rental of their electricity meter being adjusted accordingly. I certainly know, and I live in a private house, that my landlord does not pay for my staircase lighting, it is paid between the neighbours.

HON CHIEF MINISTER: .

If the Hon Member will give way. There is an element in the : rent of contribution towards stairway lighting.

HON W T SCOTT:

I am grateful for that. Mr Speaker, finally, on the draft estimates. I am glad to see some move within the Improvement and Development Fund on the new initiative of making Gibraltar more attractive to certain tourists through the introduction of a military museum and I presume that all the subheads which have the suffix (e) reserved - probably the comment has been made there, probably because of ODA. But I think we on our side of the House, and it has been put time and time again by us and particularly by my Hon Friend Tony Laddo, that if we are to sell Gibraltar we cannot compete with the people up the Coast, not only in products, sun, sea and sand but also in cost. But we have our own product to sell and it has been there for the last 200 years, let's use it, let's embellish it, let's use it. Mr Speaker, we also had yesterday the Financial and Development Secretary giving us an explanation on how the last time the personal allowances were raised, how that through inflation has now been eroded and I think he subscribed the figure of an extra £100 in allowance meaning \$2m. Well, Mr Speaker, it seems to me that at a personal level, having already eroded the allowance given two years ago and having the effect of that erosion I think Government was a little bit mean at least not to introduce a further £50 for the cost of \$1m. Mr Speaker, should we not make a further concerted effort because the Public Works bill or housing is enormous, it really is, and it seems to me just by going round the Estates that a substantial element of that cost is perhaps down to the tenants themselves not taking care of their Estate. Should we not make a concerted effort of more Tenants Associations to embellish their own places? It happens, I know, in certain Estates and if there was a comparison between those Estates that have a good Tenants Association and those Estates that do not. I think we could find quite a revelation

in the costs that FWD are subjected to within those two Estates. Finally, Mr Speaker, I cannot let the opportunity pass in this debate to again say what I said at this time last year, a matter which has already been said before, and that is GEC television. Last year I said that it seemed ridiculous to me to be subjected to a television advert throughout the day by our own Station where I pay a licence, we all pay our licences those of us that have sets and we subsidise them to about £2m a year, in Spanish about a Spanish product sold by a Spanish company exclusively in Spain and we are subsidising that Spanish company and the answer that was given to me by the Chief Minister at the time in his winding up was that well, at least if we didn't get that advertising our subsidy would have to be greater. Well, Mr Speaker, I think there are very few Gibraltarians who perhaps would disagree in paying a higher subsidy so long as we didn't have to listen to so many Spanish adverts selling houses in Spain, and we are not talking about spending £10 or £15 a week, £13,000 odd, plus, perhaps, and that is a substantial flow of capital and I wonder about the certain inconsistency there is with that and I know obviously the Government and certainly personally the Chief Minister are obviously not responsible for GEC but a word here and there can help, that and that which the Chief Minister said in the last House in the appeal to people to restrain their spending in Spain. Well, here we have the Chief Minister asking us, asking the people of Gibraltar to restrain their spending and nightly on GEC we actually hear them encouraging us to spend money and that Government, I am afraid, has to take some action. Thank you, Mr Speaker.

HON M K FEATHERSTONE:

Before the Hon Member sits down if he would give way just for a moment.

I would like to reassure him there is no decrease in the number of apprentices this year, there is a natural decrease in the number of people who were in the pipeline who are finishing their third or fourth years and also the trainees but the same number of apprentices are being taken on as in the last two years.

HON W T SCOTT:

That is encouraging, Thank you. I would have wanted to see a few more in fact.

HON DR R G VALARINO:

Sir, as far as the Financial Bill is concerned and against the present economic background covered both by the Hon the Chief Minister and the Hon the Financial and Development Secretary in their opening speeches, the draft estimates submitted by the three municipal departments for which I am responsible have been realistically assessed and expenditure both in the recurrent expenditure and capital projects in the Improvement and Development Fund has been reduced as far as possible without detracting from the present level of service

to the community. Needless to say there are no revenue raising measures with respect to the Electricity and Telephone Undertakings.

Sir, in dealing with my three departments hence the Appropriation Bill, and further to my comprehensive statement in answer to Question 128 of 1983 earlier in this meeting, I would like to refer to various items in the electricity Undertaking, as I said then, the work of the Steering Committee continues and although progress is being maintained, the final manning levels and other related conditions have not been finalised and consequently it has not been possible to present a definite figure as far as the Waterport Power Station wages are concerned. Token provision has been made under Subhead 6. In order to be able to implement this during the year, economies have been carried out in most of the votes with a wage element and it is envisaged that such savings will be reflected by reductions in the level of overtime worked hitherto, although, it must be appreciated that some overtime is necessary where a service has to be maintained continuously.

I would like at this point to state categorically that no panic measures have been taken as a result of the Committee of Enquiry, their recommendations have been followed and a Steering Committee has been set up which in time will lead to a full Works Council. The suggestion of privatisation by the Hon. Mr. Restano is ludicrous to say the least. But obviously his contribution has been politically motivated and there is nothing he can contribute constructively when faced with a sensible budget proposal. Furthermore, as regards a study of Tariff Structure, this is another recommendation (No. 30) of the Committee of Enquiry and as indicated by the Hon Financial Secretary this is indeed going to take place by Cooper-Lybrands.

To carry on with my department, Sir, the provision for fuel which is the single major item in the Department's Estimates has been reduced on the grounds that the bulk of the coming year's generation will be provided by Waterport which uses the heavier and cheaper type of fuel, and, additionally the estimate is based in the expectation that the cost of fuel will drop or at worse remain stable. Supplementary appropriation under this Head was required last year due to increases in fuel price and a higher percentage increase in generation than expected.

It will be obvious to everyone that the four skid generators at Sir Herbert Miles promenade have now been taken away, they, in fact, arrived in the United Kingdom last Saturday and I am happy to say that the whole operation from start to actual arrival in the UK has taken two weeks. The financial provision made under Special Expenditure includes a small element of hire, transportation and shipment plus the cost of restoring the promenade for recreational purposes. A reserve provision of £67,000 has been included in Head 110 of the Improvement and Development Fund with regards to the foundation of No 9 Engine at King's Bastion. It was intended to rebuild this Engine in order to replace badly worn jointing which was the cause of numerous oil leaks. Once the engine

had been dismantled and its foundations thoroughly examined serious transverse cracks were found which necessitate that the foundation should be totally recast. However, as indicated by the Hon the Financial and Development Secretary, a project application for a third generating set for Waterport Power Station has been submitted to ODA. Thus, a decision on the future of Engine No. 9 will therefore depend on the outcome of the submission to ODA given that Engine No. 9 is over 20 years old and that the plan is to transfer all generation to Waterport in the long term. Sir, in dealing with my other department, the Telephone Department I am happy to say that the financial year 1982/83 proved to be a very exciting and busy year for the Department. Amongst the more important aspects of the Department's workload was the successful introduction of international direct dialling facilities for all telephone subscribers. The service was inaugurated by the Chief Minister on the 1st October, 1982, and opened up with facilities to 75 countries throughout the World. At the same time, local call metering was introduced with the rates divided into peak, standard and cheap to enable residential subscribers to effect economies on their telephone bills. A free call allowance of 120 units per quarter was also given. Rentals were decreased in January 1983 to coincide with the billing of local calls and the Department was therefore set to charge for usage at individual levels. A rental rebate was also introduced in January 1983 for telephones out of order for over 1 month. The Department was re-structured to meet new developments and there are now three PTO II Heads of Section. These sections are performing well and procedures are being rationalised. The three sections now cater for all technical aspects of the Department, i.e. the external plant, special services and main exchange. With regard to the external plant which employs 53 industrials this was responsible for the connection of 533 telephones, an increase of 12% over the previous years' performance. The section also replaced 6 main lead type cables and laid another four which are now ready for the change-over, thus leaving the 5 year cable replacement programme with only 7 small lead cables to replace in this last year of the programme by three larger polythene sheathed cables. In the meantime, new distribution boxes and cabinets were installed and the network therefore expanded to cater for expected growth. New heat shrink jointing techniques were introduced and these have proved to be both efficient and trouble free. Amongst the other responsibilities of the section, 194 telephones were moved from one address to another and 596 miscellaneous works, extensions etc were performed. This represents an increase of 17% over the previous year. Faults decreased at the rate of 13.3 less faults per month throughout the year i.e. a further decrease of about 54% overall for the year. In fact, if I do refer to the graph it can be seen that about two years ago the number of faults were as high as 1,000. These came down to about 650 in the beginning of 1982 and at present, in March of this year, the

total number of faults including cable faults and line faults are below 100, in fact, the number of cable faults are the lowest on record and are below 150, in fact there are nearly about 40 cable faults per day. This is a salutary picture but one must take into consideration the fact that Government has decided to implement a five-year replacement programme of the old lead type cables and this has resulted in a better service to the customers and less telephones out of order.

HON P J ISOLA:

Could I ask the Minister if the lack of rain during this last year has had anything to do with it?

HON DR R G VALRINO:

The Hon Gentleman talks about the lack of rain. It doesn't, really, because the new polythene type cables are impervious to rain and rats and the only way we could push that figure up would be not so much by rain on the line section but it would be by the exceedingly high winds that we experienced in Gibraltar that sometimes plays havoc with our line section but as far as the cables are concerned the rain would have made no difference even if we had rain this year. Now, to deal with special services which is a very hard working part of the Department. This section has worked very well and was responsible for the installation of five large stored programme controlled FAX'S/PFEX'S for the business community. Amongst these sophisticated FAX'S has now been adopted the latest British Telecomms digital switch CDSS which is shortly to be installed at a local bank. The section also connected several call accounting equipments for the derivation at subscribers premises of call detail recording. Amongst the larger Hotels equipped with these sophisticated machines were the Caleta Palace and Both Worlds. The Rock Hotel equipment is presently being installed and should be commissioned in the next few weeks. Ten new electronic coinboxes for Public and Renter use were installed in several places and calls to most countries are available direct. Thirty five bars, clubs and restaurants were also equipped with the latest British Telecomms portable coinbox also allowing for the direct dialling of international calls. Now to deal with the main exchange - The main exchange was extended by 5000 lines to cater for the replacement of obsolescent Strowger equipment and for the expansion of an extra 2000 lines with IDD facilities. A complete change to a 5 Digit dialling system was effected. The installation took some 18 months to complete. Numerous technical problems peculiar to Gibraltar were resolved by the exchange staff in close liaison with the manufacturers. The in-service date was also improved by three months from the original December 1982 date. This was achieved only through the hard work and dedication of the exchange staff. Now to deal with the Trunk Operators Switchboard. The operating staff's workload was reduced by approximately 50% on the introduction of IDD, but although the equipment for direct

dialling to Spain is available, the link has not yet been established.

The switchboard has also been restructured and there will shortly be a Supervisor available at the manual board to handle subscriber enquiries, complaints etc. Other Departmental activity concerned the compilation of the new Telephone Directory which was issued in August 1982 and which contained all the information relating to charges, dialling codes etc. In fact, I have had praise from all and sundry on the new Telephone Directory and it is to the honour of Gibraltar that such a comprehensive Telephone Directory has been able to be produced for the benefit of not only the private community but for the benefit of all subscribers in Gibraltar.

The Department was also largely concerned with the computerisation of telephone accounts involving the complete identification of individual files and the change-over into computer format of Departmental forms and procedures.

Finally, Mr Speaker I am proud to say that the City Fire Brigade has continued to provide an excellent service to the community. In fact, the City Fire Brigade goes from strength to strength.

During 1982 the number of incidents attended reached an all time record of nearly 900 calls, one third of these were actual fires, this shows the public awareness of the Department to provide additional emergency services.

Their efficiency is more than well known and was demonstrated when they successfully tackled a factory ship fire at North Mole. The Fire Prevention Department has carried out over 2800 inspections, this figure added to annual increase in calls received, provide the City Fire Brigade with a challenge which they are happy and extremely able to tackle. All in all, Mr Speaker, this has been an extremely successful year in my 3 departments and I look forward with confidence to the next financial year as regards my Ministerial responsibilities. Thank you.

HON A J HAYNES:

Mr Speaker, perhaps the Hon Minister will be glad to know that the new Waterport Station is called 'Faulty Powers' in some circles, I think that says a lot for his Ministry. If I may turn, Mr Speaker, to the point made by the Hon Mr Perez in his argument for claiming that this was not an electoral budget and that had it been an electoral budget then we would not be asking for import duty reductions etc because they would already have introduced them. Sir, that in fact is a fair assessment and it would be fair comment in an economic society in which the private sector represented the vast majority of the electorate. In Gibraltar, Mr Speaker, as we all know, the public sector if anything is more powerful than the private sector so when you look to an electoral budget you look for maintenance of the status quo as regards the public sector and that is exactly what we have. We have an electioneering budget designed not to tackle or to meet any of the difficulties that lie ahead except one, that is, the re-introduction of the AACR Government. That brings me, Mr Speaker, to those problems that beset us. Obviously we have

two which stand out for their gravity. One is the Dockyard, Mr Speaker, we have had a lot of contributions dealing with this subject. I would like to make a few points, however. In the first instance we have the Members on the other side going through the motions of stating that they have provided leadership, I think leadership from behind if anything, Mr Speaker. We have had two years without any indication as to what is going to happen or what they are going to do and they claim that that is leadership, Mr Speaker, and it is precisely because there has been a vacuum of leadership that the Trade Unions have taken the fight up for themselves, they do not see anybody doing their fighting for them so they go off on their own. And if you want leadership, Mr Speaker, you have this vicious attack by the Chief Minister on the unions for their actions, page 5 of his statement, he says: "I am simply saying that I believe a strategy of industrial action at this stage is unwise". How mild can he get, Mr Speaker? Is that how he proposed to lead, is that how he proposed to...

MR SPEAKER:

I am going to call your attention now. We are speaking on the Finance Bill and I am not going to have any nonsense about it, we are not going to convert any matter that comes up in this House into a vote of confidence against any particular Member and I will call your attention and if you do insist in doing it I will ask you to discontinue your contribution. This is a debate on the Finance Bill, on the Second Reading, and it will be just that and nothing else. I will not countenance anything else, I have made myself very, very clear and I am going to stick to that ruling.

HON A J HAYNES:

I accept your ruling, Mr Speaker. My only concern is to outline the economic

MR SPEAKER:

The Finance Bill is the responsibility of the Government collectively and not that of the Chief Minister. Will you please continue.

HON A J HAYNES:

Mr Speaker, we on our side of the House have now for at least a year, perhaps longer, advised and warned against the difficulties that will be compounded by industrial action in the Dockyard and, Mr Speaker, we have made this point strongly and clearly for some time and that, Mr Speaker, is what we believe to be leadership. We are concerned, Mr Speaker, that as regards the Dockyard there is no basis for us to suppose that an alternative economy is being provided for or planned for by this Government and that again, Mr Speaker, is a question of leadership, the leadership which the Government claims to be giving and yet is not apparent to anyone. Mr Speaker, in facing the Dockyard problem we require a campaign

to try and prevent the closure, a campaign on the scale and of the type that was mounted in the British Nationality issue, perhaps now it is too late. In this respect the main effort has come from my Hon Colleague, Major Peliza, leadership again, Mr Speaker, from this side of the House. Where is the Government's campaign to avert the closure? Mr Speaker, we all know that the alternative economic structure which has to be set up in Gibraltar to take in the slack of the Dockyard is an enhanced tourist centre. We need a tourist infrastructure to cater for large employment and, hopefully, a large number of tourists but instead, Mr Speaker, tourists in Gibraltar are becoming an endangered species and every year fewer and fewer return to Gibraltar. Mr Speaker, would it be out of order to say that the Minister perhaps is somewhat responsible for this?

MR SPEAKER:

I think you have been long enough a Member of the House to realise what is and what is not in order. I will most certainly put you right if you are not clear. When you are speaking about a particular department you are entitled to refer to the Head of that Department insofar as policy is concerned. You should be very clear-minded on that.

HON A J HAYNES:

Well, Mr Speaker, I believe that the Minister's efforts in the North of England has been unproductive, to put it mildly. Perhaps he enjoyed his trips, I am not sure, but it does seem that they have been given the chop Mr Speaker, from the Chief Minister's statement, at page 7: "Tourist advertising has been curtailed". I think the failure of the Minister has been recognised but instead of other efforts being made, Mr Speaker, tourism continues to be on the decline. And if one examines the kind of infrastructure that we require, we have already had my Friend Mr Loddio explain that we must advocate and promote the military side of Gibraltar, that is what we have as an attraction. We have a myriad of tunnels and galleries inside the Rock which are far more complex and far more dramatic than what is presently available which is only the St. George's Hall area. We require these tunnels to be made available to the Gibraltar Government, or part of them, we require them to be advertised, we require the military fortifications to be done up in military style and made open to the public to be part of an overall tourist attraction but we also need the infrastructure that goes with it. We need more help for hotels, you don't want hotels continuing to be in serious trouble. We require, for instance, on the side of liners, we require a proper facility for liners coming to Gibraltar. We require proper facilities for the hydrofoil coming to Gibraltar. I know, Mr Speaker, that we brought up the case of the stranded tourists, 69 stranded tourists in Gibraltar and no one to help them. That, Mr Speaker, was not good advertising for Gibraltar. We must begin to lay the foundations for tourist infrastructure, you cannot hope to do it overnight and you cannot hope to do it when the town is

being flooded with people. And again one of the basic pre-requisites is a clean city, Mr Speaker, it seems that that is slipping fast. Mr Speaker, though we on this side of the House like all Gibraltarians are worried at the prospect of the Dockyard closure, our worries are nevertheless compounded by Government's inability to provide an alternative or even the basis of an alternative. We are worried that we see no medium term policies, no long term policies, Mr Speaker. My argument is that this budget is designed to take us to March 31st, 1984, full stop. There is nothing there, Mr Speaker. And that brings us to the other major problem which again everybody pays lip service to and they mention but it must be discussed, Mr Speaker, it is at the moment taboo even to mention it, it is foreign policy, it is the question of the frontier, the primary obstacle for us to achieve economic independence. That is an accepted fact, so everybody seems to say. We require to list the restrictions in order to achieve economic independence but do we want economic independence? It does not seem that we are doing much to attain it, Mr Speaker. We need economic independence for both political stability and evolution and that is a precept which I hope will not be disputed. So what are we doing about it, Mr Speaker? I know that the established view is that this is a matter outside our control but I consider that the time has come for us to play some part in the shaping of our destiny and I think the time is ripe in order to achieve it. I am beginning to tire, Mr Speaker, of this softly, softly approach which allows all the parties in the issue to put off the confrontation that is required and allows the economic siege to continue to our detriment. When are we going to realise, Mr Speaker, that we require a bold approach? Mr Speaker, it seems fair to say that for the last twenty years we have kept quiet and accepted passively the failure of all diplomatic solutions and the continued restrictions. I do not blame the Chief Minister, I appreciate that this was perhaps the only policy open to us but not, Mr Speaker, the policy which is exclusively open to us today. Why is it that we have always accepted the failure of diplomatic solutions and simply, Mr Speaker, because whenever a door is closed, whenever a diplomatic talk comes to nothing a window is opened either the next day or a week later or whatever. There is always a ray of hope allowed to emerge. Why? Because they know that that might keep it quiet and it does and the next time there are diplomatic talks that ray of hope is crushed. It has been happening all the time and what is happening with the Lisbon Agreement, Mr Speaker? It is postponed, it is never declared dead and lost. And we are meant to just tag along. I know the Chief Minister must be as frustrated as I am but what I am saying is that if we accept that this is the correct analysis, what are we going to do about it? I do not believe that this policy of waiting and allowing things to take their course will achieve the lifting of the restrictions, at least not in a way that we can in any way say when, how and why. We are not in any way helping to shape our destiny. At the moment it seems that we are banking on the lifting of restrictions on Spain's entry into the European Community. That of itself is a nebulous and ever.

receding prospect and one which I am sure unless we have proper ground-work laid for it is not necessarily going to achieve the desired object that we have. So, Mr Speaker, it is important therefore to examine the issue from the Spanish Government side to see what is holding things up. And if one examines their perspective of the issue, one can understand how even if they believe that the restrictions are contrary to their interest i.e. their interests in terms of their better relations with England and with Europe, how nevertheless even though the restrictions are contrary to their interests, they are unable or at least unwilling to lift them. And why, Mr Speaker, the answer is quite simple. There is a custodian of those restrictions, that custodian is now nearly 30 years old. It is the monster of Spanish propaganda created since 1954 and there isn't a Spanish politician and there isn't a Spanish Government that dares tackle that monster of propaganda. That monster of propaganda, Mr Speaker, we have seen how powerful it is, we saw it only last week they whipped up a fury over an absurdity and who is this altruistic politician that is going to tackle this monster, commit political suicide and achieve the righting of a wrong. There isn't, Mr Speaker, I know the Chief Minister pinned his hopes on Felipe Gonzalez. We have discussed that before and I don't want to

HON CHIEF MINISTER:

If the Hon Member will give way. I would like to clear this matter, if I may. I do not put my trust on Felipe Gonzalez at all, I put my trust in the people of Gibraltar in the Government and in the British Government and Parliament. I did say, and this has already been said, at the time, that the opening of the border for humanitarian reasons was a step in the right direction, the direction went wrong later and that is another matter, but it would seem from the number of people that have used that facility that it certainly carries the support of quite a number of people in Gibraltar.

HON A J HAYNES:

Mr Speaker, I take the point and I do not wish in this debate or in this issue to stir up an inter-party dispute, it is too important for me at this stage and I should like to analyse. We all had hopes in Felipe Gonzalez but it hasn't worked out, Mr Speaker. As I understand it, however well intended the politician may be, he will be unable to tackle that propaganda monster which has been fed, and members here will know it better than I do, with lies and half truths which create the impression in all Spanish minds that Gibraltarians are undesirable. How are we going to oblige them to face this monster, Mr Speaker, when every time that a date for an opening comes near they realise what it would entail and they say: "Well, if we don't do it, what is the alternative?" And the alternative is that no one is going to hit them, nothing is going to happen to them, so what do they do, they take the easy solution. In those circumstances, if we want to plan our economy on the basis of any given set of circumstances which must include an open frontier, we must therefore if we are planning

on an open frontier we must play our part to have those restrictions lifted. We must therefore formulate a way, a method in which we can pose the Spanish Government with two alternatives, either they get a bloody nose from tackling the Spanish propaganda monster, or they get a bloody nose from international pressure or direct Foreign Office pressure or Gibraltar pressure and if then the prospect is that either way, either way they get a bloody nose, then they may well plump for that option which we require in order to achieve economic independence. They may well then in those circumstances open the frontier and lift the restrictions. Mr Speaker, at the moment with the restrictions as they are, we have three general choices. One is to accede to their request, the request of the Spanish Government, and that option has been rejected and it continues to be rejected so that one is not open for us. The next one, Mr Speaker, is to deal with the matter outside the ambit of the issue itself i.e. to horse barter, the proposition of my Gallant Friend, the Chief Minister has mentioned it often enough, the entry into the Common Market facilitated in exchange for lifting restrictions. Mr Speaker, I personally have little hope in that. In any event I think it is too distant to warrant much consideration of this kind. And, secondly, we have already seen it happen in the Treaty of Versailles related to Gibraltar in which the Spanish Government were given Florida and they still want Gibraltar. The third, Mr Speaker, is one which I advocate, the creating of pressure.

MR SPEAKER:

I have been very liberal with you but I think I have got to bring you down to earth again. You are talking about the Finance Bill.

HON A J HAYNES:

I beg your pardon, Mr Speaker. Mr Speaker, if I may explain what I am trying to do, I am trying to say that if we are entertaining a budget it must be with some idea in mind, long term, medium term or short term and one of the most important factors in designing a budget is whether you are budgeting for an open frontier or a closed frontier and are you bargaining for a short-term frontier or what. In order to understand if there is a policy or what the policy is of Government in this respect we must analyse the prospects of an open frontier.

MR SPEAKER:

No, no, with due respect, it is the Financial measures for 1983 that we are talking about and we have got to keep within those limits. I am saying this now after I have let you speak for about 20 minutes on the matter.

HON A J HAYNES:

Yes, Mr Speaker, but if one considers the Finance Bill itself we must ask ourselves is Government budgetting in any

manner for a short term opening of the frontier and are any of the contributions directed to this subject. And the answer, Mr Speaker, must be: "No, we are not budgetting for a short term opening of the frontier." And it seems that though perhaps the Government have hopes of a medium or long term opening, they are not budgetting for that either because in the same way that the alternative to the Dockyard must be a tourist structure far greater than what we have today, similarly the main catchment area for an open frontier as far as Government is concerned must be tourism. For those two reasons, the prospect of a closed dockyard and the prospect of an open frontier, we need to develop our tourist attractions and facilities and we must do it now before the matter is upon us. But as I say, Mr Speaker, the short term prospects were succinctly noted by the Chief Minister when he said: "The forecast points to rising unemployment, no real scope for revenue growth and belated development momentum. The stability of the Government finances and of the economy as a whole has to be safeguarded." Well, Mr Speaker, we cannot say no to that in the short term not unless somebody is going to do something in relation to the frontier or something in relation to the dockyard or something to encourage investment or something to inflate or prop up the hope and spirit of the Gibraltarians, Mr Speaker, and I think there is precious little in this budget that will achieve that. If the prospects in the short term are so grim, why have people on a tight leash. If the ship is coming to a storm you release them and let each one float and fight for themselves. You cannot have everybody herded together or they will all sink and that is exactly what in economic terms we have in Gibraltar today, Mr Speaker, we have the shackle of taxation, a very severe shackle, it doesn't allow you the flexibility to budget for yourself, you are being budgetted for. Instead of releasing the shackles and allowing the Gibraltarian individual some freedom when facing the prospects of a recession, instead of allowing that, Mr Speaker, we are all being herded together. That I don't think is a recipe for achieving our success at the end of a recession. On the contrary, it is going to deepen the recession, Mr Speaker. The Chief Minister said, and I would respectively suggest it is a lot of bunkum, Mr Speaker, that we have a clear choice either.....

MR SPEAKER:

No, no, no. We don't speak bunkum in this House because if we did it would be irrelevant and I would have called the Member's attention.

HON A J HAYNES:

Mr Speaker, we have a clear choice, either we build houses - I have never seen this Government build houses - we maintain and provide our power and water services, at what cost and with what frequency. We improve our schools and hence provide employment - at the moment we have got unemployment, Mr Speaker - or we boost personal income directly in order to

boost consumption on luxuries with as a community we cannot really afford and we can do without. Mr Speaker, that is not the purpose of reducing personal incomes directly. By reducing personal incomes directly you achieve greater employment, you achieve greater stability and yet, Mr Speaker, the Chief Minister considers that all that people want their money for is spending them on luxuries. But where are the policies of the Government which on releasing some of the taxation burdens open up schemes whereby they can attract the money back voluntarily in exchange for home ownership. This Government must be the Government with the most policies in the world, Mr Speaker. They don't do anything, Mr Speaker, but they advocate that they own all the licences to all the policies, Mr Speaker. Mr Speaker, and why aren't they giving people the flexibility they require, it is because it is election year, Mr Speaker, and they want to keep the public sector as happy as possible. That is a catchment area for electoral votes, Mr Speaker. So instead of in the face of this recession, Mr Speaker; re-structuring the public sector to the needs and the pocket of the Gibraltarian, what do they do, they don't re-structure Mr Speaker, they say: "I am sorry we are not doing anything in this budget, we will make a couple of changes, reduce import duties here and there". Not enough Mr Speaker, to help the private sector because whatever benefit some of the private sector may achieve from these import duties the fact is telephone have gone up, not in this budget of course, Mr Speaker, but we all know the telephones have gone up, rates have gone up and that, Mr Speaker, is enough to ensure that the private sector won't be able to keep its head above water. The private sector who are having such an easy time of it according to the Government when the Chief Minister said again: "What I mean, and Government has evidence to this effect, is that certain traders protected as they are could reduce profit margins, improve competitiveness and pay their bills on time and not expect Government to reduce duties". Well, Mr Speaker, big brother is watching over the businessman is he? We could say the same of Government and we do. They could run their departments with far less money and that, Mr Speaker, is what we advocate in budgetary terms. We advocate cuts in public sector spending, we advocate limited privatisation, we advocate increased efficiency in Government departments and as an example of this we would restructure the Public Works Department, the Housing Department and the Lands and Surveys into one composite group to try and give some coherence to what at present is an ungainly blob, Mr Speaker. Again, Mr Speaker, we advocate a drastic reduction in direct taxation as being the only way that we can meet a recession. And now, Mr Speaker, having considered the general ambit of the budget I turn to my own department, Housing and the Port. In Housing Mr Speaker, I think the Minister for Housing said it all, he said in relation to his department, there were three things two which are ours and one is his. This is how he summarised his year in Housing. He said: "We now have a housing list in which the top 50 are handed out on a quarterly basis, that's ours. We have a medical panel, that's his, and we have distribution by Committee that's ours, Mr Speaker, and that

really is our achievement. But, Mr Speaker, that is not all. When we look at this ghastly distribution of housing, when one reads back numbers of Hansard it keeps you awake at night. If we go back to question No 63 of 1981 in which I asked the Minister, then the Honourable Mr Zammit, for Government to publish a list of the first 100 applicants in the various units of housing, etc, etc. The answer, Mr Speaker, was no, and the Minister went on to say "It cannot be done and I am not prepared to waste taxpayers money. It was worked out in answer to a question asked some two years ago, before the Honourable Member joined this House, that it would entail something like seven typists to carry out an exercise that would not mean anything to anybody". Well, Mr Speaker, I then anxiously looked at the annual accounts expecting to see 14 new typists in the Housing Department and what happened, Mr Speaker, there are actually no more, it seems they can do it without them. Mr Speaker, I wouldn't like to go into this too much but I would make the point that they said it was impossible that they would require any number of things, anything except to do it, Mr Speaker. Suddenly somebody comes in and a miracle, it happens. That same Minister, Mr Speaker, finished his point of housing by saying: "We would like to build houses but you cannot build Varyl Begg. Is it time we had a new Minister who could come in and do Varyl Begg as well."

HON A J CANEPA:

You.

HON A J HAYNES:

I think so, Mr Speaker, I hope it will be because Varyl Begg was built under the leadership of the Honourable and Gallant Major Peliza. It does seem, Mr Speaker, as if this Government can drown in a tea cup, everything is impossible until somebody else comes and tries it, Mr Speaker, and the so-called or self titled frustrated Minister for Development is a confession which I would shudder before making, Mr Speaker. On that basis, Mr Speaker, I think it says it all. A frustrated development and an inept budget, Mr Speaker.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I will be guided by you on what I can speak or cannot speak about because I am a bit confused. We are talking about appropriation.

MR SPEAKER:

You can speak on the general principles of both the Finance Bill and the Appropriation Bill and of the departments you are responsible for.

HON MAJOR F J DELLIPIANI:

I think my Colleague the Hon Minister for Health and Housing has made it quite clear to this House that this Government has

not taken the opportunity of the last budget before the next election of making it into a soft budget so that we all get re-elected next year. It is quite clear because we have not lowered any of the taxes, of direct taxation, and in fact we have increased water, we have increased rents, so we cannot really say that we are talking popular budget measures. I am in fact known within our own Council of Ministers as a hawk and in fact I was opposed to the Government's measures in reducing the telephone charges because I believe that the sooner we can get rid of any borrowing that we have done and pay them, the better it is for the future of Gibraltar and by reducing the telephone charges all we were doing is passing on our debts to the future generation but they are softer than I am and when we went for the charges we put them as we thought was right for a trial basis and such against my wishes when the trial basis proved that some money was coming in they changed their mind. I would not have changed my mind, I am a hawk. I am a no-man and I believe that I am right in my attitude because not only are we extremely worried about the Dockyard closure and I am convinced, and I do not need any experts to tell me this, that the commercialisation of the Dockyard will not work. I am absolutely convinced of that. But I am now worried and I am glad that we have taken tougher measures, I am now worried about the possibility because the faceless mandarins in Whitehall are so susceptible to Spanish reactions that we might not have a base next year because of all the complaints from Spain. They might start listening to them and say: "Goodness me, next year Operation Springtrain must not be carried out because we might offend the Spaniards". Thank goodness Mrs Thatcher is there but we do not know if she is going to be there next year, I am praying that she will be, but if she isn't we might not have a base. The other thing that worries me is what when we get the notice on rates there is an item called brackish water. I remember in the old days it was all brackish water for our flushing system but now I have suddenly realised that it is salt water and we have not consulted with Mr Moran whether we could use his salt water and we might have to use fresh water and that will possibly be more expensive. I think what the Government is doing is trying to get a message across to the people of Gibraltar that we might become more cost conscious and I think it is doing this through some restrictions in overtime and other restrictions in different items in all the Heads where controllers and people who work within the department become conscious that some items are expensive, some items are desirable but not absolutely essential and that we must prepare ourselves for the future in case things get worse and there is every indication that things are getting worse. I remember that at the last meeting, Sir, I mentioned that we know the Spaniards and we know the British. The Hon Mr Bossano said: "and the Spaniards know us". Well, I do not think the Spaniards know us and I do not think we ourselves know ourselves that well because I will challenge anyone in this House who really thought that when that frontier was opened on the 15th there would be that undignified rush across the border. I challenge anyone to say that he would have predicted that. I would have predicted that

there would have been a gradual using of the frontier but not that mad and undignified rush so I do not think we know ourselves that well and certainly the Spaniards do not know us otherwise they would have done it years ago. I think what is important for this House to realise is that our economic future is bleak, that we have to take action now, that we must make Gibraltar attractive as a shopping centre, that at the moment we cannot make it that attractive because there are restrictions from the other side but we can make Gibraltar attractive as a shopping centre on certain specific items and this is what the Government has done. If there is a normal frontier opening then other things could be improved, other reductions could be made on other imports etc, etc. What is important for the people of Gibraltar to realise is that apart from the damage that the closure of the Dockyard will do to Gibraltar we ourselves are doing damage to our own, Spain is not doing it we are doing it ourselves. I can well understand people going to Spain to buy cheaper vegetables and cheaper bread, I can understand it, it is the most human and the most natural thing to do. If one is budget conscious one tries to use that money as sensibly as possible and one tries to find the most economical way of spending that money but what is ridiculous is that people go there to buy cheaper food and cheaper bread and cheaper this and then they spend what they have saved and more on entertainment. Everybody is going horse riding now, it is the popular thing, every week-end horse riding, skiing, skating, you name it they do it, things they have never done before in their lives. I remember in the days when the frontier was opened completely I used to go there once a year to La Almoraima, or the Corkwoods, and then it was a donkey or a mule.

I think people in Gibraltar have gone absolutely mad. I have heard people saying: "Well, I go to Spain only to dine" and they go every week but they never went not even once to dine in Gibraltar. I know people who probably went to dine twice a year and now they go every week. Surely at the end of the year that is more expensive than going twice a year so they have all gone mad. I know of quite a few people who do it very strictly, they go there, they do their purchases there and they come back quickly but most of them are cutting their own throats. I think that because Members opposite have not had the opportunity of being in Government, most of them are very new, and what they say I am sure is very sincere but they do not realise that Ministers when they submit their draft estimates for every particular department that they are responsible for they try to get as much money out of the coffers as possible. It makes life very easy to say: "I need £5,000,000 for this, I will ask for £6,000,000 and I will be cut down to £5,000,000", but the truth is that when we submit our own estimates we have to do some pruning because we have to balance our budget to be able to borrow money and it is quite tough on a Minister to be able to go back and say: "Look, I am sorry, I have not been able to achieve this, I wanted this but I did not get it". I do not say that I did not get it I say: "We decided that we would not get it", it is a collective decision, and this is what I am sure some Members opposite do

not realise, that we are all out to get as much money as possible for our own departments but when we are told we have to cut we have to cut and the way one has to cut is a judgement of the Minister helped by his Heads of Department as to where the cuts can be made which will cause the minimum damage to the service that each department has to provide. That is how the cuts are done. If I was told I had to cut £2m, for example, for my Education Department, the easiest way to do it was to get rid of teachers. If we have 292 teachers, well let us make it 200 but then it would cause unemployment, the ratio of teacher to pupil would go down which is pretty high in Gibraltar, it is one of the highest of all the UK authorities, so one has to measure where those cuts have to be done and this is what every Minister tries to do. Ministers do not like cutting their own votes, it is an unpopular thing to do, we know because we are cutting our own throats. If one has visions of being elected again one wants to be remembered as the Minister who give us this, the Minister who gave us that, not the Minister who cut this who cut that but one has to take some responsibility for one's Ministry and I stand for what I have to do. The Hon Member, Mr Loddo, has mentioned capitation; that it has gone down. Well, it has gone down, I admit it, but this does not mean that every year the capitation has to be the same because there is a lot of equipment which you only have to buy once every four or five or even ten years. It does not mean that capitation has to be spent like that because I know of some headmasters and headmistress who manage very well and do very wise buying and look after their equipment and look after their books and they manage extremely well. Other schools don't know how to manage their money and they mispend it. But just because the capitation does not look the same or more than last year it does not necessarily mean that things are getting worse because compared with the UK authorities, our comparison in capitation is very, very favourable and we are the little town and they are a big nation with oil wells, etc, etc. On the question of the prison, I think the Hon Mr Loddo mentioned the question of overtime in the prison, there is again a balance to be found. I agree with the policy that where there is too much overtime because it is required it might be possible to think in terms of employing more people because there is an unemployment situation but you have got to balance the act because though there might be a lot of overtime, when you employ somebody else there are a lot of hidden fringe benefits, pensions and employer's contribution which might be more than the overtime but I realise that there is a point. I am all in favour of cutting down on overtime where with that overtime which is saved we can employ more people at the same cost or less, I am all in favour. What I am not in favour is to employ more people to cover that overtime and then it becomes more expensive especially in a service like the prison where there is such fluctuation in prisoners, etc, etc, and who knows, in an ideal society we might find ourselves with thirteen prison wardens and only one prisoner.

HON W T SCOTT:

If the Hon Member will give way. The argument being proposed does not seem to be reflected year in year out in that particular Head, on prison, because the element of excessive overtime always appears.

HON MAJOR F J DELLIPIANI:

Yes, it might appear but it does not necessarily mean that it would be cheaper to have more prison officers. I will look into it, I am looking at it at the moment, in fact, because there is another problem involved now with the open frontier and that is that where before we knew when something happened that those people were in Gibraltar, if something happens now most of them are over in Spain and we might have to employ more prison officers with the condition that a number of them have to stay behind in Gibraltar. On the question of opportunities for our youth, I am really quite convinced that it is not a question of what the Government provides for training, the problem is really on the attitude of people in Gibraltar towards work. We are still trying to be selective, and it is a natural thing, towards what kind of work we want for ourselves and our children, we are still trying to be selective. It has not sunk on people that we are no longer in that position. I do not believe in training for training's sake when there is no object at the end. Of somebody told me now "There are fifty youngsters who want to train in the catering trade and they are willing to go and work in hotels", I would open up immediately, I could do it, I have tried it but youngsters are not interested in the hotel and catering trade, they are not interested because of the hours. They do not want to work on Saturdays and they do not want to work on Sundays even though they are paid for it, they want their free time and now with an open frontier they want it even less. People are still being choosy about jobs and because in many cases both parents are working and can afford it, they are giving their children fabulous pocket money and even buying them motor-cycles because you see them around town all day, day in and day out, they do not work but they have their motorbikes. It is not a question that we are not prepared to train people or prepared to help people, we are prepared to help people, of course we are, but all they are interested now is being Clerical Officers, Revenue Inspectors, Police Officers, Prison Wardens, no one wants to be a waiter, no one wants to be a head waiter, no one wants to be a chef, no one wants to be a road cleaner. We have old men aged 70 or 80 as lavatory attendants, a youngster would not be interested in doing that kind of work. We are still being choosy, we are in that situation that Great Britain was in the early 1950's when they had to recruit labour from the West Indies to run their underground because no one wanted to do it, to run their bus service, to run their National Health Service because no one wanted to do it. Gibraltar's attitude must change. I am prepared to introduce any kind of training scheme when I see that young people and their parents are saying: "Yes, it is hopeless, my son can no longer aim to do this kind of work, what is the alternative, help me out". I am quite willing to do it, any kind of scheme.

What I am not willing to do is to train people to go out of Gibraltar because we have to keep our youngsters in Gibraltar for the future. Because if we train people so that they can get out of Gibraltar then we are losing the objective, what we are fighting for. We are fighting so that we can get Gibraltarians to stay in Gibraltar not to overtrain all of them so that they all leave Gibraltar. Mr Speaker, in conclusion I will only reiterate that I think whether the Opposition believes it or not, I sincerely think this is not a pre-election budget. It is a budget which will prove unpopular and maybe because it is an unpopular budget because we had introduced a certain element of increases, if the Opposition get into Government it might help them at next year in having a healthier economy.

HON W T SCOTT:

Before the Honourable Member finishes if he will give way because I didn't want to interrupt his flow.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am always willing to give way to the Honourable Mr Scott.

HON W T SCOTT:

I am very grateful. I didn't want to interrupt him a second time but am I not right in saying that surely it is an initiative of Government to educate the people it represents, and, secondly, I think in unemployment we are looking at the very latest situation with the young, Mr Speaker, the young who have never had a job and who have left school is very different to a family man that in circumstances finds himself unemployed.

MR SPEAKER:

been
With due respect, I think the answer you have given is a simple one. Government is prepared to educate the youth in Gibraltar provided they are prepared to learn trades which are needed in Gibraltar. I think he did say that. We must not debate the particular issue itself but if you want clarification by all means do so.

HON W T SCOTT:

No, Mr Speaker, only that comment that in fact the young might feel rejected by society and that is the big problem.

THE HOUSE RECESSED AT 12.50pm.

THE HOUSE RESUMED AT 3.25pm.

HON MAJOR R J FELIZA:

Mr Speaker, Budget time is never a very pleasant occasion and

I think after lunch is perhaps the most unpleasant occasion of the lot. I think I might help myself with my digestion and perhaps members on the opposite side if I were to bring a little bit of exercise of the mind into this very important question which is the Budget which in fact is what tells us the way the Government has gone for the past 12 months and should tell us the way the Government intends to go in the next 12 months but judging from what we have seen, the performance of the Government during the last year, and what they tell us they think the Government does not know whether it is coming or going, Mr Speaker, and if they don't know where they are going or coming how can anybody else, Mr Speaker, make a good assessment and proper judgement of what the policy of the Government is. Mr Speaker, when one looks at what has happened recently, when one sees that perhaps the opening of the frontier was one of the most important issues of the last year, and we hear and we see contradictions going on all the time, we have, for instance, Mr Speaker, the Chief Minister standing up and saying this is a great occasion, a great triumph, then suddenly people who go over are 'pansistas' and so on, and then we find that we have the media here which the Government is subsidising to the tune of £2m almost telling people to go across and buy things on the other side of the frontier, we have the Minister responsible for the toilets in our beaches closing them because he thinks that everybody is going to go over and almost encouraging them to go over; do they really know what they want, Mr Speaker, I have my doubts. This is a typical example, Mr Speaker, of the contradictions of this Government. We hear, for instance, Mr Speaker, that tourism is at its lowest ebb and we find the Chief Minister as a great gesture saying they are cutting down the advertising of tourism in Gibraltar. What is the policy of the Government, have they a policy? What has happened now suddenly, Mr Speaker, because what was coming from the sky or from where it was coming, from heaven, has suddenly decreased and what was retained here is going out and the future augurs not too well for Gibraltar, they find that they have to do something about it but they never had a plan before and I don't think they have a plan today as to what they are going to do from what one can see. And believe me, Mr Speaker, the situation is very serious, very serious indeed and I feel that because it is very serious I should highlight not with my own words but from the words of the Government itself how serious the situation is. Mr Speaker, if one looks at the statement of the Financial Secretary, page 7, paragraph 18, to me this is the most important statement made by the Financial Secretary that I have heard in this House since I have been here since 1969. He says: "The balance on visible trade 1982 shows a deficit of £45m compared with £40m in 1981. It is difficult to estimate whether in balance of payment terms this visible trade gap was more than matched by Gibraltar's invisible earnings. In other years I have declared confidently that our invisible earnings notably expenditure generated by defence, tourism the port and capital aid, have left us in a modest surplus position. I do not have the precise answer for 1982 but for the first time I consider it to have been very close either way". That means, Mr Speaker, that we are very much on the

brink because if Gibraltar doesn't earn enough money from outside we are going to feel the pinch very quickly. We are not a big nation where we can rely on credit from other nations we haven't got the resources. I will quote the Chief Minister page 6, paragraph 15. He says: "The general economic outlook is gloomy, severely compounding with the recessionary pressures which afflict the economy. Our reserves are projected to fall from £11.7m at the beginning of the financial year to just under £8m by the end", and remember that out of these £8, £4m, if I remember it rightly are being owed and are not being collected. I would have thought, Mr Speaker, that straightaway because the reserves are going down, because the picture is gloomy for the future and because we have £4m of which we do not know how much we are going to collect, I would have thought that in the same statement or somewhere along the line, someone would have mentioned how we were going to get those £4m. Not a word, not a word, Mr Speaker. I could carry on quoting from the statements, Mr Speaker, but I do not think that perhaps it is worth it. Every member has got it and perhaps I will refer to them now and again just to prove points. I think the House realises how serious the situation really is. And now we find that in the beginning of the statement of the Chief Minister, just to see what sort of theme he has for this year. He says at page 1, para 3: "This time last year I said that the theme of the budget for that year was to be cautious, prudent and consolidation in the face of the many uncertainties facing Gibraltar". And because he was cautious, prudent and things were uncertain, we have seen where we have arrived at. It was a year for action, it was a year for boldness, it was a year for initiative and determination but no, you can see the attitude. But we have certain certainties, Mr Speaker, which should have been tackled. One certainly was tourism, this is our own business. Port is another one which is ours. What was done in that respect? What was done for the industries which are ours and which we control and which we can develop if we put our heart and mind to it, what was done for that? Nothing, Mr Speaker. And what have we had in this respect this year for that, Mr Speaker, nothing. We looked at all the terrible things that are going to happen about the dockyard, and I agree. I think that again, Mr Speaker, it is worth pointing out how serious the situation of the Dockyard is and again I think, Mr Speaker, I am going to quote from the statement of the Financial Secretary because I think this is very important Mr Speaker. Page 11, paragraph 28, under the heading "General". He says: "Today I cannot hide my deep concern on the facts available for the economic stability of the territory as the closure of the naval dockyard approaches and the proper effects on the discriminatory frontier opening effectively prevents the development of opportunity for diversification and new revenue growth". And further down, Mr Speaker, he says: "The likely impact of the dockyard closure represents the most serious economic and social problem for everyone in Gibraltar". The Chief Minister, too, is well aware of that and he dedicates quite a lot of his statement to the closure of the dockyard. I know the difficulties that the Government and the Chief Minister have on this

question. I am not having a go at the Government in this respect. I do realise, as the Chief Minister quite rightly says, that he has to find out the outcome of the study that is going on is going to be. I agree with him that it would be taken as irresponsible by Her Majesty's Government if the Government were to throw it out just like that, we would have no case to put forward in England. But at the same time he said and quite rightly that he opposes the closure of the dockyard and I think we all know, our gut feeling tells us that it is going to be very difficult to replace. The Financial Secretary said in his report, I am not going to quote it, but he says it. And, Mr Speaker, if we know in our hearts of hearts that it is almost impossible that that can be replaced viably by commercialisation since one hasn't got to be an expert on the matter to read the newspapers and find out that ship building is a dead industry in Europe, most of the ship building is being done in the Far East, and that the ship builders have resorted to repair work and that repair work itself is not viable, that most of the yards in Holland, Belgium which are very big ports, Antwerp and Rotterdam, they too are being heavily subsidised by the Government of those nations because they just cannot operate. In England we all know what the situation is, every day we read about it in the newspapers. How can we, being reasonable persons, believe that we who have never tackled that kind of business here are going to do better than all those experts who have long connections for many years doing that kind of work. I really cannot understand how people in the United Kingdom in those Ministries are so blind to the situation, I just cannot understand it, it just doesn't make sense. Therefore, Mr Speaker, since the situation is one of, as far as the Gibraltar Government is concerned, and I agree with them, is wait and see and see what we can do, at the same time I think we must get ready for the survival of Gibraltar and the only way to do this in my view is to start getting ready leaflets, information and all sorts of things, to be able to put our case to the members of Parliament in the United Kingdom if we fail to succeed with the Ministers, I have no doubt that this House is totally united on that and the Government need not fear at all that we shall all do our best to make sure that somehow we can preserve if not the dockyard as it is today, something that will give us the economic wherewithal to keep Gibraltar going. I cannot but urge the Government to act as quickly as possible together with all the other parties and all the other bodies interested in Gibraltar, in producing some kind of plan to combat successfully the situation that has unfortunately been presented to us because of the Defence policy. One has to accept that if the Defence policy in the United Kingdom has changed it is obvious that as far as the Ministry of Defence is concerned they have got to adjust their support to the new naval situation, one has to understand that as well, but I think that it is only fair that they should understand our position as well since Gibraltar has given them very good and loyal service for many years and will continue to do so whatever happens. I think we have got to start from that basis. We are part of the same family and we are going to stay together come what may. We shall remain British and in the same family and there will be no resentment because that is not

the way that we should proceed. Equally, I think that unfortunately, in my view, the Unions in Gibraltar are mistaken in the way that they are acting. It is not a question of being anti-British or not being British, no. I can understand that this is a straightforward industrial dispute and one should in no way try and suggest that because they are striking they are less British than those who are not, that is not the case.

HON CHIEF MINISTER

If the Honourable Member will give way. At what stage has anybody accused the Unions of being anti-British in the way in which they are acting?

HON MAJOR R J PELIZA:

I think that perhaps one Member of Parliament gave that impression in Gibraltar.

MR SPEAKER:

Not one member of this House.

HON CHIEF MINISTER:

It was being quoted to me yesterday that you were alleging that I had said that what these Unions were doing was anti-British.

HON MAJOR R J PELIZA:

I don't know who quoted because what I speak outside the House, if he wants me to make an analysis which I deliberately do not want to make in this House, I can do that, yes. If he looks at his statement he will see that he drew attention to a number of - I haven't got the statement here but if the Chief Minister could let me have the statement if he has it there, he does mention the question of British and there could be an association of using the word "British" in that statement with the action of the Unions, that is what I said. If that is so I will now refer to it. "The Royal Navy has been associated with Gibraltar for 280 years, it is the very symbol of our Britishness. To take action against the Royal Navy Exercise as proposed will have the following consequences. It will raise the question in people's minds in the United Kingdom whether we really want to be British and we say we do". What do you think, Mr Chief Minister, of that? How can that be interpreted, Mr Speaker, outside this House and particularly in Britain where there is nobody to explain what is meant by that. It will cause serious dismay to our friends in Britain, the British public, the British press and above all our friends in Parliament. Mr Speaker, I can assure you that this if picked up by those who are not our friends will give a colour of anti-Britishness to the action of the Union. Luckily, Mr Speaker, that has not been so.

If one looks at the letter in The Guardian who is not our best of friends, the Editorial, Mr Speaker, said: "Doubts about the enclave's Britishness will have been dispelled for some by the classic dock strike on arrival of the Naval formation. To call it a flotilla seems wrong now that a frigate can do more damage than a battleship of yore. The process was against the British decision to close the local Naval Dockyard to save money and took the form of blacking the ships except in emergency. The shut down as a protest against the impending closure is familiar paradox to do it when one of the few sources of occasional future work, passing naval vessels are in port transcends the merely illogical as the apologetic letter to the ships from the strikers leader implicitly recognised but is undeniably British". So this is the way they took it, luckily, but it could have been taken the other way. I didn't want to bring it up, really, I may have personal views but one thing is to have personal views which one can express in private and another thing is what one expresses publicly, one has to tone it. The last thing I want to do in this debate is to do any damage to the Chief Minister in this respect but unfortunately he has brought it up and I think it is very out of place to do that now and what I am saying is that it has nothing to do with Britishness, it is a straightforward industrial dispute done, as the paper said, in the best of British ways and not to be interpreted as being anti-British which the Chief Minister thought it might. From the point of view of the press that has not had that undesirable effect but having said that I do not think it is good for us, it is certainly not good for the members of Parliament because, as I said, some of them have taken it the wrong way, unjustifiably so, but they have and also, and this is in the general sense, a strike is a dirty word in England today and I do not believe that it has in any way helped the cause, it could in fact, in my view, be counterproductive. I do sincerely hope, Mr Speaker, that in this respect the Unions can join the political forces of Gibraltar in a political way to try and avoid the closure. I think this is an instance where skill rather than strength is required and it is political skill that is required and I think we have proved time and again that Gibraltar has the political skills to overcome difficulties of this nature. The Chief Minister has said and has reiterated in his statement that he will consult all parties once the decision on the dockyard is given and others that is an excellent idea and it should be done. But in my view there is some information that the Government should acquire as soon as possible and should acquire it directly. I have written to the Board of Trade in England asking for information on the position of the neighbouring repair yards, I have not had a reply. They should be able to give that information directly. I am sure that the British Embassy in Madrid should be able to provide accurate intelligence on that I think the Government should inform itself of what the position is. From what I hear from Spanish radio and television they are in an extremely poor state, unemployment is rife, in Vigo there was a general strike the other day because there they had little

work for their own yards, in Cadiz I believe that there they are going to be nationalised, all the ancillary businesses connected with that, factories and so on, are being closed. Altogether 5,500 are going out of jobs and eventually I believe they are going to retain about 1,500. This is what I gather from television. I think the Government should find it possible to find out exactly what the position is there, in Lisbon and in any other neighbouring repair yard and also what sort of income the workers get and also what kind of subsidies they get as well. All those things, in my view, the Government should obtain directly and not through any consultants or any other persons but directly from Her Majesty's Government so that Her Majesty's Government is committed to those figures. Because if at the end of the day this is not so, we shall be blamed for not having had the right information. I have had opportunity of speaking to people who know about this, that the wages apparently in England are 30% less than those in Holland and therefore some people say that Holland and Belgium are not doing so well because their wages are high but what about Britain, they are not doing so well and their wages are lower, and what about Spain which is even lower than Britain and they are not doing so well. So that argument, in my view, does not hold and even if they say that perhaps the neighbouring yard is not competent, what about those which are competent and who are near big ports where usually repairs are carried out? When a ship is near one of the big ports, like Rotterdam, this is when they take the opportunity for carrying out repairs or changes and so on. Mr Speaker, I think that the Government should try and get that information and equally they should make an assessment and get Her Majesty's Government to make an assessment as to what extent the Spanish Government is directly going to sponsor and subsidise competition against Gibraltar because we cannot expect that a Government which has kept the frontier closed for so many years, which today is doing its best to bleed Gibraltar dry by one-way traffic, is going to allow us to do well with a commercial dockyard. I believe, my instinct tells me, that they will obviously try and torpedo that operation as quickly as possible and I think we should have some guarantee from the British Government that they would by every means protect Gibraltar from any such deliberate interference with the progress of our commercial repair yard if it ever comes to that. There is even one greater aspect and this is that in that kind of business you have the ups and the downs and if you look around that is happening all the time. In bigger places like Britain and so on, these downs can be absorbed by shedding labour, finding some other employment and the income of the nation is still there all the time but in Gibraltar if we have a long down as the one that is now taking place, what happens in say, five years with a closed dockyard who can support the thousand workers if we are successful or 300 workers if we are completely lost. Mr Speaker my common sense tells me that it is a non-starter. The Government should try and get this information directly from sources that are reliable and use it for the arguments that I have no doubt, in my mind we shall have to use. We mustn't leave it for too late, we have got to start working on that straight away. Mr Speaker, we have one of the pillars of our economy, which is

the dockyard in great jeopardy and almost about to become extinct. Then we have the other one, Mr Speaker, and this is the one that I am responsible for and on which I am going to be as constructive as possible. I think I have been constructive on the dockyard but I am going to be as constructive as possible on this one as well. The best way to tackle the situation is again, since the Minister for Tourism has not spoken yet, which is a great pity, Mr Speaker, because I think the Minister responsible for the Department should stand up and explain what has happened in last year and explain what they are going to do in the coming year and then the Opposition would be in a position to either support, criticise or object to what they are going to do. But as it is as in everything else in Gibraltar so far, Mr Speaker, it is the Opposition that has to take the lead. We are leading the Government, we are leading Gibraltar except, perhaps, where the Unions are concerned, Mr Speaker. One looks at the state of the Electricity Department, Mr Speaker, to which I will come in a moment, and we hear the Minister say that his department has done extremely well and he is happy, perhaps the bigger the lie the more people believe it, I suppose, that must be his philosophy because no one can say that electricity has been a successful department, Mr Speaker. In fact one wonders, Mr Speaker, what is going to happen. We hear about the Preece, Rider and Cardew Report. Then we have the Committee of Enquiry, then we have the Steering Committee, now we have the whatever it is that is going to look into the rates, the Chartered Accountants, and now we are talking of a Works Council. Who is running, Mr Speaker, who is going to run the Electricity Department, Mr Speaker? I don't know, I don't think the Minister knows, I don't think the Minister knows who is running it today and I would have thought, Mr Speaker, that it might be in the interests of all concerned if the Electricity Department was handed over to the Unions and let them run the place. I think they would probably make a better job because then they would be responsible for it and if they carry on like that they should run the Government, Mr Speaker. And why has this happened Mr Speaker, why? Because the Government has not been governing, it hasn't been governing. The same party which has been in Government, because the party has been in Government all the time, has only been interested in being the Government and there is a great difference between being in Government and governing and I don't think the Government has ever been interested in governing because in governing one has to do unpopular things and when one does unpopular things Mr Speaker, one does not get the votes at the end of the day. If the idea is just to be there because one can get some satisfaction in being there then, Mr Speaker, the consequences have got to be paid for and we are now paying for that, that is what we are paying for, for lack of good government in Gibraltar. The typical example is the Electricity Department because this could not be hidden, the lights went out, Mr Speaker, and everybody got to know about it and this was inevitable, the publicity was there, whether the newspaper or the media gave it, it did not matter, the bulbs themselves told the people what was going on in that department, Mr Speaker. Again we see immediately mismanagement,

misjudgement, Mr Speaker, misjudgement as to the requirements for Gibraltar. I remember when I brought the matter up they said there was no need for anything then suddenly 5 megawatts, now it is 10 megawatts and now they are thinking of having another engine so from not requiring anything at all, I think it was in 1980, now they require three times the amount. Where is the planning, Mr Speaker, where is the policy? Where are we going? This is why I said at the beginning the Government doesn't know whether they are coming or going, that is the true situation. When there should be action, they are adamant for inaction. Tourism is the example and I am coming back to that, Mr Speaker. Let us look at tourism. The best way, because that is the only guidance I have, is to go by the statement made by the Honourable Financial and Development Secretary. I will quote from page 8 of his statement: "1982 is once again a bad year for the tourist industry, I said last year that given the recessionary outlook for the United Kingdom economy, our main tourist market, any significant improvement in tourist prospects for 1982 necessarily brings on the opportunity flowing from an open frontier situation". First let me remind the House that the number of people leaving England on tourism has increased by £2m since 1981. So, Mr Speaker, we obviously are not getting anything out of that extra traffic leaving Britain. But if this had been the first time this has happened one would have thought, well, we have to do something about it, but this is not so, the statement says it. It is not just the first time, once more, and, Mr Speaker, it is rather interesting because the statement says it necessarily hinged on the opportunities flowing from an open frontier situation. So it was not only the Chief Minister who was taken for a ride but I think also the Minister for Tourism who thought that with an open frontier all was well. Notwithstanding that I have been saying in this House for the past 10 years that whatever we do, the same as the Minister for Development believes, and quite rightly, that we should have our electricity supply and our water supply independent from anything to do on the other side of the border, I think we have to accept that in the circumstances now and in the foreseeable future that equally our tourist industry must be geared to an island resort and nothing to do with the Spanish frontier and, of course, anything that comes from the Spanish frontier all the better. One can see that they were geared for that. Was there any question of paring the cheese, as you say, for getting the place ready for an open frontier? Not at all. We have spent thousands of pounds in painting the streets for the Spanish traffic or whatever traffic was going to come into Gibraltar. We spend a lot of money in parking spaces but we have never been so bold with tourism, have we, notwithstanding it is the most important industry in Gibraltar after the dockyard and for which we are entirely responsible. We cannot blame anybody else for this not functioning properly, we can only blame ourselves. But we don't invest in that one, we don't. In fact we invest more in the Philatelic Bureau, proportionally, than we do on tourism. We must remember that the gains coming from tourism in Gibraltar is in the region of £11m. That money is coming into Gibraltar and on which there is a lot of employment, much more employment than the Philatelic Bureau. There is income

tax paid by those people which is going into the revenue, all the traders in Gibraltar who deal with that, income tax from the shops and also from the work people who work in the shops, the taxi drivers, and also the duty from the purchases that tourists make in Gibraltar, all that is involved in that.

HON H J ZAMMITT:

£11m is what the tourist industry generates not that Government makes £11m. Out of that probably Government may make a direct collection of £800,000 out of those £11m.

HON MAJOR R J PELIZA:

Well, all I can tell you is that one company involved very much in tourism basically, I have been told pays in income tax £1.25m into the coffers and this including all their employees. That I have been told by a Director of that company. If that is so you can see how much of that money is going into the Government. I don't criticise them for it because the more business they do the better it is for Gibraltar. To me business is not a dirty word but you can see the mentality of the Minister himself. He says if it is only £11m and the Government is not getting anything out of that it is not important, but it is important. He does not appreciate the value of that. He hasn't said so in so many words but this is what was implied because he went out of his way to explain that it wasn't £11m that was going into the Government. I knew that, of course. If £11m was going into the Government out of that I could have assumed that at least £50m was coming into Gibraltar. I know that. It is not new. I have said it here before. I have said, forget about the money that comes directly into the Government, it is the economic activity that is generated in Gibraltar that is important as one of the industries of our economic base. The Minister for Development has hardly said a word about tourism. I just don't understand it because this is ours and this we can make a go of if we have the imagination, determination and the know how and I think the Government lacks all three of them. Let us look at the Advisory Board which is set up to try and encourage everybody to infuse enthusiasm into everybody connected with the trade. How many times has that Board met? I was told that it hasn't met since August. Since August it hasn't met. Is it surprising that this quarter hotel occupancy has been down by 50% on last year? I would be going round in circles if I were the Minister to make sure what we can do to bring more people to Gibraltar. Instead the answer is that the Chief Minister says we are cutting down on advertising for tourism. Another indicator on the priority that the Government gives to the second most important industry in Gibraltar. And if that is the attitude of the Government then you can see why the poor people connected with the tourist trade are in desperation and two hotels are up for sale. If they go it means that we still have fewer beds and less and less people are going to come.

HON J A CANEPA:

If the Hon Member will give way. He is quite incorrect. Both Worlds, if it is sold, there cannot be a change of use. The only way in which it can be sold is for it to continue in the tourist orientated complex that it is.

HON MAJOR R J PELIZA:

What he doesn't know is that who is going to stop whoever buys it or even the management today of closing it down, unless the Government is prepared to take it. If you want to sell the hotel it is because you are not doing so well and if the situation gets worse there is only one alternative. Both Worlds cannot put up the taxes as the Government does. When they find that the electricity works is not behaving as it should that people are being paid wages that obviously have got to be somehow paid for, all they do is put up the tariffs and everybody has to pay or if they do not put up the tariffs, as they have done in this pre-election budget, what they do is they get it subsidised from the reserve funds or whatever and of course no one notices it because no one is going to shout if all you do is that you transfer over £½m from the Consolidated Fund in support of the Undertaking, no one is going to notice that, but the individuals are still paying. They are not paying directly for what is being charged for light but of course they are paying through the very high income tax that is paid in Gibraltar. I would remind the House, Mr Speaker, that the difference between Gibraltar and Britain now is colossal, it is really colossal. It is £850 in Gibraltar and for a married person in England it is £2,795. Yes, it is £2,795 the married allowance of some one in England and we start paying at £850. Can you say that what we give in social services and in other respects is comparable to what we have to pay here and they have to pay in Britain. I challenge anyone to say that. Remember that the British Budget also carries a very high expenditure on defence which we haven't got and I accept one thing, that because we are a small territory there are a lot of things that go against those, we have overheads that perhaps add proportionately more to the expense than it would do in England but I believe that the difference is so great that that in itself is a clear indicator of the bad administration of our resources in Gibraltar and how much we are overtaxed in Gibraltar through bad administration which means that people are not getting value for money, that is what it means. For this, Mr Speaker, the Government is to blame and nobody else. They are to blame. Particularly the party which has been in power for so many years. The last time that an increase was made in the allowance was in 1981. We had nothing in 1982 and we have nothing again in 1983. Of course the lower income people are the ones that suffer most. The Hon Mr Canepa says that it is not a pre-election budget but of course it is a pre-election budget and they haven't done it because they cannot, because the Government is not at a dead end. They haven't got any money and they cannot. And the little that they have they are unable to collect, they are even bad at collecting money. Mr Speaker, I have heard one businessman who said it was most

unfair that so and so was not paying and he had to pay. And what does the Government do about it nothing. If they went to town and they did it of course those people perhaps literally would have to close down. And what do we hear from the Government, that the trade is profiteering, I don't think it is fair to talk that way about the trade in Gibraltar. The Minister for Development referred to profiteering in the sale of computers games. I don't know how much he knows about computer games but it so happens that I went to an exhibition in England recently and there are two types or more than two types of computer games, one which is very cheap and break very quickly and literally you have to throw away, and the other one which is better and larger and of course you pay more for it. I don't know whether the Minister knows what type he was referring to.

HON A J CANEPA:

Mr Speaker, the kind I was referring to are the ones that were £7.50 and the same one became £12.50. Those are the kinds I am referring to.

HON MAJOR R J PELIZA:

I don't know whether he can tell which is the same one because I myself cannot tell. I am going to produce a pen and I would like him to say whether it is a cheap one or an expensive one because there are more than one kind. Mr Speaker, you can get a Parker, a real Parker pen, and one which looks like a Parker pen, and you pay £1 or 50p for one and you pay £11 for the other and you cannot tell the difference until of course you find out after a few days that you were sold a dud and that happens every day in Oxford Street in London if the Minister cares to go. And of course the Minister has gone plenty of times to Oxford Street recently, Mr Speaker, and I am beginning to wonder who is longest in Britain now, myself or the Minister. And let me say on this, Mr Speaker, that is a good thing that he is there because he is just following what I preached here on numerous occasions, the importance of being at the counter of the shop if Gibraltar wants to sell in England but I will come to that in a moment. Mr Speaker, for tourism we rely to a large extent on the United Kingdom. Some come from Tangier and perhaps, en passant, I should mention Tangier, I am told that because of the open frontier the load of the plane to Tangier has come down very considerably and I think the Government should give some thought to do away with the departure tax on that plane because otherwise we may find ourselves without a Tangier air link. The Government has got the means and ways of testing that, finding out if what I am saying is true or not true. I am told that if this were to be done not only would it enable the plane to stay but there is a great probability that it would generate more traffic between Gibraltar and Tangier. I think the Minister should give careful thought to that. If he has not been approached, well, perhaps if he knocked at the doors as I do whenever I come here, he would have got to know. I make it a point of doing

my rounds. I think the Minister perhaps might like to do the same thing. The same as he goes to England and knocks, I imagine, at the doors of the operators, it might be a good idea if he came here and knocked at the doors of those who have got to deliver the goods at this end of the market. Of course that is no substitute for the Advisory Board where, by the way, I would suggest that the Conservationist Society should be represented there and in fact one of those members should also be in the Museum Committee because I don't know if the Minister has seen this wonderful pamphlet called "Save" which has been produced and paid for by the Save Britain Heritage in England. It has been produced at no cost to Gibraltar having come here by the initiative of those in Gibraltar who are working so hard to preserve our heritage having come here and having looked round and having seen what we have, of which a lot is tremendous historical value, they have gone out of their way without asking for a penny from the Gibraltar Government to print this very interesting leaflet. I think the least the Government should do is to open the doors to them, let them be represented in the Museum Committee and let them be in the Advisory Board so that when we are marketing Gibraltar, we market something which is ours and nobody else's. Of course we need the sun and the sea but I think there will be people in Britain, particularly those who are connected in one way or another with Gibraltar through the Services and so on, who might be tempted to come over and stay with us for a week or so to appreciate this and of course at the same time we must have guides and people in Gibraltar who would be prepared to take people around and so on but of course this is all part of the product of which I am coming to in a moment. Mr Speaker, we have to first of all try and see what we can do with regard to people coming from Britain and Tangier, then we have sea cruises, yachts come over and the pedestrians from the land frontier. I think the land frontier for the time being is not going to be very profitable but I would commend to the Minister to floodlight the North Face of the Rock. As soon as the frontier was opened particularly he who had so much faith in it, I think I would have put the lights on there immediately. I suppose they are still there unless they have been scrapped. That was a great advertisement for Gibraltar seen all over the Southern part of Spain, from Marbella to Algeciras and even up the hills of Algeciras, and I would suggest that this should go on as quickly as possible because even if the people who come in only drink a coca cola or something like that, at least it is a coca cola and that is better than nothing so I would suggest that we should give some prominence by floodlighting the North Face of the Rock. The number of visitors from UK is worse than ever. We have the figures from the Financial Secretary. Arrivals in 1982 was 24,537 and that is the worst year ever. Mr Speaker, luckily, they stayed here a little longer than previously so the hotel occupancy has gone up slightly on that score but hotel occupancy in 1981 was down to 36.2%. That is a very low figure, Mr Speaker, and we find that the prospects of doing much better are not all that good because of the load factor which I think again was mentioned by the Honourable Financial Secretary. A problem that has not been made any easier by the outcome of the CAA but we are blaming again an authority over which we have no control but

we do not blame ourselves for not doing what I have always said we should have done for a long time, that is, we should have a national airline, not necessarily owned by the Government but in which the Government would have shares and would have a measure of control so that the object of the airline is not entirely to benefit itself but its primary objective must be to bring tourists to Gibraltar and as well as tourists to give the opportunity for Gibraltarians in Britain and Gibraltarians in Gibraltar and others who have families also to be able to move from here and there. At the moment the airlines, quite rightly, you cannot blame them, are there to make as much money as possible out of the route and we all know it is a very tricky business and we have seen it by the performance of past airlines and what has happened to them. For all we know even Air Europe if they had been given the route they might have collapsed after a little while because their intention is to make money. We all know that perhaps Air Europe had perhaps a chance of doing better because they are connected with one of the great tourist operators in Britain of which I shall have more to say at a moment, and that might have helped but that does not necessarily mean that it would have been a success. Therefore if we want to make sure that it is going to be successful the Government must participate. It is our industry, it is our most important industry and we have got to produce the results that we need then the Government, itself must take a hand in that. Who would believe that in Britain there would be a railway service or an underground service today if it was not controlled by the Government, it would not be there because it wouldn't work. There they are to provide a social service, we need it to provide a means of economic income to Gibraltar and therefore the Government must take a hand on this matter. If public enterprise cannot produce the results then the Government must try and find ways and means of doing so, because as long as we are at the mercy of the airlines that bring tourists to Gibraltar we shall always be in a very difficult and unsure situation. Mr Speaker, when I ask the hoteliers what is the main difficulty, the first thing they tell me is price. Our price is too high, it is not competitive. We have got it down to rock bottom, but the cost of our services are very high. We pay 100 times more, they say, for water in Gibraltar than they pay in Spain. The bills are astronomical for water and you cannot expect the tourists to come to Gibraltar and be told not to use too much water. Therefore, whether they like it or not, that is a chunk that goes into the price which is inevitable. And the same as I said with the airlines, if we want to keep 400 or 500 people employed, and more, directly from the tourist trade, we have got to give a measure of support to the people who make this possible. And then we come, Mr Speaker, to the operators, four operators, Mr Speaker, have given up Gibraltar, some of them for good. One was OSL, Wings, Ellermans and Thomas Cook, and we are left with three large ones. There is also another one but I think the three main ones are Sovereign, Exchange and Cadogan. And it is said that Exchange brings about half the number of people who come here. Look at the situation today and this is in fact why people were worried about another airline coming to Gibraltar. That if Exchange have left because of that we would have lost 50% of

the tourists coming to Gibraltar, overnight. We are in a very precarious situation. Since in any case it is the chap behind the counter who sells Gibraltar, no matter how much advertising they do in Britain if we haven't got the tour operators who offer the tour to the people who want to go on holiday, we will never be able to sell Gibraltar. What we are suffering from is that we only have three operators none of whom are at the top of the list. The largest, as I understand it, is Exchange Travel which I think is 12th or 20th in the list. It is not one of the largest, by any means. Intersun is one of the largest which unfortunately we haven't got. Perhaps we can make a success of this with a flight to Manchester. It has been proved, apparently, that the Manchester flight is the one that brings most tourists to Gibraltar and therefore if that is so why therefore do we not reinforce success, and go to the Provincial Airports to try and get more people here. Why haven't we done that before and why don't we do it now. Why hasn't the Minister got a plan for that on which investment will have to be put into. You are not going to draw a new tour operator into this just by telling them to come to Gibraltar. You have got to give them an incentive and the incentive must come in the form, perhaps, of free advertising. And paying for space in their brochure. That is the only way that they are going to do it. I am told that the most sophisticated tourists are in fact in the catchment from which we are selling which is the South East of England including the bigger London area. They are supposed to be the most sophisticated, those who want to go to the Continent, they want to go abroad and are less likely to go to a place where you sell it because you speak English and so on and so forth. It looks as if we are tapping possibly, the wrong market. Also, because they are the most sophisticated, they are the people who budget their income and say so much for my mortgage and so much for my insurance and so on and so forth, and it is very clearly planned. At the end of the day what is left is what they use for their holiday and they stick to that. But if you go further North where the people are not so sophisticated, where they are less interested in going to the Continent, perhaps people who go to Blackpool and Brighton and so on, they are more inclined to go to a home from home sort of place.

MR SPEAKER:

Let us not analyse on the Finance Bill and the Appropriation Bill the habits of people travelling. You are free to offer any suggestions you may have to enhance revenue from tourism, but let us not go into the details of how that revenue is going to be raised. We are talking about the general principles.

HON MAJOR R J PELIZA:

Anyway, Mr Speaker, whether we like it or not, the Government must invest money into this the same as any other business because this is our business. How can I hope to sell anything without first of all opening a shop, paying for the lease or

whatever, and paying for the stock that I have there. How can I do it? This, I am afraid, is what the Government is trying to do with tourism in Gibraltar. It is trying to sell tourism but is not prepared to invest in it. An investment has got to be made and it has got to be made before it is too late because we are coming now to what one might call the point of no return and to start all over again is going to be very difficult. So, Mr Speaker, we have to find operators who will bring more tourists to Gibraltar because they sell Gibraltar otherwise people will not buy it. Secondly, we have to look for a market where we might be able to do better than the market that we have today and that, as I see it, and as people who know the business say, is further up North. And, of course, we have to improve our product. On this, too, Mr Speaker, we are doing very badly, extremely badly. Nothing has been done, Mr Speaker, to improve things. Let us start somewhere and keep it up. It is no use putting a flower-bed today and forget about watering it tomorrow because it looks even worse than when you put the flower bed there. You might as well not spend money on the flower bed if you are not going to have the flowers and all you are going to have is rubbish. Someone told me, in fact, that they saw the sweeper going round collecting the rubbish and then putting it in the flower beds. Mr Speaker, this is where there is absolutely no coordination in Government and this is by all means the responsibility of the Minister for Tourism but much more of the Minister for Development because this is the industry that we have got to develop and it is no use dreaming of grandiose schemes on the East side of the Rock which never mature. No wonder he feels so frustrated, Mr Speaker, because he is tackling the things that he cannot tackle but the little things that count so much for us, that we do nothing about. Gibraltar is filthy, we can see, it is rubbish wherever you go. We can see even here, Mr Speaker, we have a nice promenade in Rosia where I mentioned the question of Jumpers Bastion at question time and I think the Minister for the Public Works Department said that although all those old refrigerators and things were going to be cleared but they are still there Mr Speaker, they are still there. Mr Speaker, there is rubbish everywhere and I think that unless a great effort is made on the product the chances of bringing tourism to Gibraltar are very, very small because even if we get the operator, even if you invest in advertising, even if you get the airlines to bring them here, once they have come they will never come again or very few of them will come again. Mr Speaker, I think it needs very careful planning. The Minister must urge the Minister for Economic Development to help him with this. He must see that the Minister for Public Works cooperates in keeping Gibraltar clean. He must get the Advisory Board going to get the full cooperation and enthusiasm of all the people involved. They are willing to help, they have told me that if the Government brings down the cost of water proportionally they would invest that money in bettering the service, in bettering the conditions of their hotels. To that degree they are prepared to cooperate and I am sure that there would be much more cooperation coming from them. I suggest that the Minister should remember these letters; P for Prices, O for Operators, M for Market, P for Product and S for Seats in

the aircraft - POMPS. So if the Minister can remember POMPS and go to bed thinking of it, get up in the morning thinking about it, perhaps, Mr Speaker, we may see some change in the tourist trade. If we were able to fill two Boeings 737 with a 70% load factor of tourists, that would bring to Gibraltar 66,413 beds filled up.

HON H J ZAMMITT:

If the Honourable Member will give way. Sir, I would like to know if he means two 737's coming in per week with 130 passengers would produce 66,000 beds. Would he like to explain that, Sir?

HON MAJOR R J PELIZA:

Yes, over a year.

HON H J ZAMMITT:

Then his figures are wrong.

HON MAJOR R J PELIZA:

Well, these are the figures I have been given. It is estimated that the money they would leave behind would give £1.5m more to the economy and would give the Government £300,000 direct income. That would increase the money flow in Gibraltar by £2.6m pounds and it would create 148 more jobs. The investment in support of this I would say at least should be the £300,000 that the Government is going to recoup but look what you could do, I have just given you an example of how it is possible, I am not saying this can be achieved just like that, but it is obviously a proposition, a target that the Minister should set himself because he knows that he can create more jobs to that extent, that he can bring more money into the economy and that he can put more money into the Government. The Minister has got a very responsible job in Gibraltar and I am just not sure to what extent he realises that. Mr Speaker, now I would like to touch on the Estimates of Expenditure with regard to the actual cost of the Tourist Department. I think the total of the cost is £653,000 but we have to deduct some money from that in that we get £67,000 for airport tax which I think is only fair should go because otherwise there is no point, it would be immoral to have that tax. I know it doesn't but it should because I would say that if there was a departure tax in Gibraltar it should go for some specific purpose but not just into the funds of the Government as such, it should be specified on what it is going to be used. The Minister should use his weight, if he has any, to try and get as much money as possible for tourists. He also gets £81,000 from the tourist sites so altogether, Mr Speaker, he should be allowed to have in his own rights £148,000. I am really very helpful to the Minister, as he can see. If we deduct that from the £653,000 we find that the Government is using only £405,000 on tourism. This is chicken feed, Mr Speaker, on the major industry in Gibraltar over which we have direct control and we

have neglected that, Mr Speaker. Not only have we neglected and seeing that the Dockyard is going we are doing nothing this year to at least attempt to put that right. Mr Speaker, if we compare that with the Philatelic Bureau the Estimates for 1983/84 is £400,000 coming in and it costs £179,000. We are going to make out of that £220,000 which is good money, I am not criticising that, what I am trying to say, Mr Speaker, is that we are investing £179,000 to make £200,000 but in tourism we are obviously making much more and we are employing so many people and we are only investing Mr Speaker, the lack of economic sense of the Government. Perhaps the Minister can say why we have suddenly lost so much revenue from the Philatelic Bureau because it has come down by about half. A department that was doing so well suddenly finds itself coming down so rapidly at a time when we can least afford that to happen. Well, Mr Speaker, there is more to be said about the Port and Yacht Marina but I think I have talked long enough. Perhaps one should finish by saying that with the possible closure of the dockyard a tourist trade which is plummeting down, the chances of an open frontier which could bring more business to Gibraltar, at least those who think that it would, not likely to happen, it is a very gloomy picture for the future. I don't think this Government has it in it to change the course of the situation and it would be perhaps in the interests of Gibraltar if they did go to a general election as soon as possible. I really mean that.

HON H J ZAMMITT:

Mr Speaker, Sir, I thought whilst listening to Members opposite quite patiently that we were discussing or debating the Finance Bill and yet as happens every year we divert from there into pettiness in trying to score points against individual Ministers and not at the revenue raising matters which we ought to be considering at this juncture. Mr Speaker, on the three departments that I have responsibility for I think the Honourable Mr Gerald Restano was the first one to speak on behalf of the Opposition and started off by saying that the first thing the Government should do is to take account of the DPBG proposal that the Victoria Stadium should receive a fixed subvention by Government and be run by sportsmen. I would like to remind the Honourable Mr Gerald Restano and indeed all Members opposite that that was exactly the case as it was before the Victoria Stadium was built when the old Victoria Stadium was controlled by a Sports Control Board and allowed to go to ruin and which brought, if members will recall a funeral procession by the Youth of Gibraltar for Government to take over a dilapidated Victoria Stadium and I remember in my young days playing on it where before a game we were compelled to go to Eastern Beach and collect half a lorry load of sand to put down. I don't think that anybody in the interest of sportsman would like to see the Stadium revert to that situation again. Secondly, if the Honourable Mr Restano thinks that we should hand over the Victoria Stadium by subvention to a group of people to run the Victoria Stadium while Government is providing the funds I think it runs contrary to what he said that the Opposition were going to

vote against, i.e. GBC, and I don't think that it would be very proper that if we were to give money to a Sports Board and then find the Opposition voting against it, it would be completely and utterly wrong again and experience has shown that the Stadium as run today and as has been running certainly since 1972, there are very few complaints about it and there is a fair crack of the whip to everybody and not just to one or two Mr Speaker, that was the situation and history proved and I am not speaking through my hat, I was an active sportsman when Mr Restano was playing soldiers somewhere else and I know more about the Victoria Stadium than he does and therefore I know what I am talking about. There is a Sports Control Board of people not nominated by the Minister but by the Federation. We never seem to go far enough and when we do that is pre-election so when we don't go far enough we don't go far enough and when we do go that far it is pre-election. This present Opposition, particularly the DPBG, shine by the inconsistency of their arguments throughout not just at budget time but throughout the three years that they have been in this House. Mr Speaker, to say that the overtime at the Stadium should be looked at again is quite ridiculous. The people there are geared to shift work and they work 39 hours a week but if we want a Stadium open on a Saturday and a Sunday, then those people although they work 39 hours or 8 hours on a Sunday we all know they have to be paid double, treble or whatever it is, because they work on a Sunday when everybody else is on leave. Whether we employ 5 people, whether we employ 10 people we still have to pay Sunday overtime rates so again it is a ridiculous argument to place as regards the overtime at the Victoria Stadium. Let me tell you, Mr Speaker, that Stadium is open from 8 in the morning until 11 at night. If we don't want that kind of service then let the Opposition say so and Government might consider reducing the service we are providing, if we want people working people have to be paid and there are no two ways about it. Mr Speaker, the Honourable Mr Restano also mentioned, together with the Honourable and Gallant Major Peliza, the question of the drop of philatelic sales. Yes, it is absolutely true, there has been a drop in philatelic sales throughout the world. There is a recession in philatelic sales but I would like to say with a certain amount of comfort that we in Gibraltar have not lost account holders. What we have lost is that a person instead of buying 5 or 6 or 10 sets has reduced it to one or two sets because of the present cash flow situation but we have not lost our accounts as have other administrations, indeed, we are getting accounts because of our conservative way of producing stamps in small issues or small numbers throughout the year. There is a great decline in the world of philately. We hope, of course, it will come back in not too distant a future. May I also say that we are quite lucky that we have not had to resort to giving out below face value which is what some countries are doing and which is damaging the industry even further. We are holding ourselves above water and, hopefully, as soon as the market finds its balance, we will be back with what we were getting originally and probably more. Mr Speaker, mention was made by the Honourable Mr Restano that our London Office was underused. Mr Speaker, the London Office is a Gibraltar Government Tourist Office, it is not an

Embassy, it is not a High Commission but let me assure Honourable Members opposite that very many Gibraltarians have made use and I hope will continue to make use of the London Office facilities as best they can in whichever way the staff there can be of help. I am not at all opposed to the idea that we do not necessarily have to be in the Strand. I think I can inform members that we have recently had a bit more bad news that the rent from £9,700 has gone up to £18,200, nearly 100% increase, Mr Speaker, in the Strand. I have given instructions to try and find alternative accommodation not necessarily in central London, Croydon is very expensive and may I say to the Honourable Mr Restano, Victoria is extremely expensive. We looked at a place there which was £68,000 of the same square footage as our Office in the Strand is. We are thinking very carefully because as I said the Tourist Office is not just for tourists but we do get Ministers, Officials, the Leader of the Opposition, when they go on their outings on political matters, of course, they make use of the London Office, and very rightly so. We are considering very seriously whether we have to be in Central London, could we be outside London and at the same time maintain the status of it being a national office. We have thought of the Philatelic Bureau having some business there but there are certain conditions attached to the functions of the Tourist Office, there are certain conditions attached to the Government of Gibraltar as to the functions of the Gibraltar Tourist Office, but I don't know what the Hon Member means exactly by further expansion.

HON G T RESTANO:

Expansion in political terms.

HON H J ZAMMITT:

Mr Speaker, as I said, it is not an Embassy, it is not a High Commissioner's Office, it is a Gibraltar Government Tourist Office. There are hidden dangers and I think the Chief Minister in his intervention will probably mention something about that. I am sympathetic towards expansion in Gibraltar activities be it to Gibraltar Groups, getting together, or whatever, certainly. Mr Speaker, my good friend Mr Tony Loddo said very briefly about the ways sportsman have been neglected over the last two years and surprisingly enough it is during the last 3 years that Gibraltar sport has been at its best. Funnily enough it is only within the last two years that we have had major achievements both home and away in international ventures, from the recent GFA championship in Ipswich the first ever win by the Gibraltar Football Association, to Rock Gunners being the European champions, to GFA participating in the European Nations Cup, by a visit of Wales, a visit of France, by a visit of England next week, and by Rock Gunners going away again in June for the finals of the A Group. We have never had it so good and as for the money that Government has contributed, and I am not going to list all the amount, Mr Loddo said that I had given £25 per sports team. Well, Mr Speaker, football have taken £4,800 from Government

by direct financial assistance. As for hockey, Mr Speaker, £14,199 and 70p. If that is the way that sport has been neglected then I take total responsibility for the Minister's failure and urge Gibraltar's sportsmen to continue in this marvellous way of reflecting Gibraltar's sporting achievements in having done as well as they have particularly over the last three years.

HON A T LODDO:

If the Hon Member will give way. Will the Minister give to this House a guarantee here and now that the USOC all-weather hockey pitch will not be used as a parking place?

MR SPEAKER:

No, with due respect, order. I am not going to allow new matters to be brought up. The Minister has answered an allegation that you have made, if you have an explanation to make on that allegation you are free to intervene otherwise there is no need to.

HON H J ZAMMITT:

I will guarantee the Hon Member that I will continue to be as neglectful in the next four years when we come back into power as I have been in the last three years and hopefully wish that sportsmen in Gibraltar achieve this high standard and I will be the happiest Sports Minister as I have been for many years and proud of Gibraltar's sporting participation. I think we have done extremely well and no one can fault this Government for the concern and what we have done for sport in Gibraltar over the last eleven years and in particular the last three. No one can fault us nor will anyone be able to fault us, Mr Speaker, it is there black upon white. This little micro chip Gibraltar competing and winning championships galore in Europe, in England, wherever we go we supposedly at £25 per sport which the Minister gives. Mr Speaker, I will not give way any more because I can take a joke but enough is enough.

HON A T LODDO:

I assure you, Mr Speaker, it is not a joke.

HON CHIEF MINISTER:

Mr Speaker, the Hon and Gallant Major Feliza spoke for one and a half hours and we had to suffer his oratory and except for clearing up one matter he was not interrupted and I think we deserve the same treatment.

MR SPEAKER:

It is up to the member who holds the floor to decide whether he wants to give way or not but it is my prerogative and my discretion when not to allow interruptions, I think you should now continue your speech without interruption.

HON H J ZAMMITT:

Mr Speaker, I think he must have had tongue in cheek when he spoke about having neglected the sportsmen. As I said I have a tremendous list there of cycling, angling, God knows what, with Government assistance, that people have gone away and people have been brought to Gibraltar in all spheres of virtually every sport. No less than thirteen visiting cricket sides have been to Gibraltar in the last thirteen years and my Hon Friend Mr Scott can confirm this.

MR SPEAKER:

With due respect to the Minister. You are now speaking directly to the Members on the other side and asking them to interfere, you must not do that, you must speak to me.

HON H J ZAMMITT:

I apologise, Mr Speaker, if I entice them into replying I think that Government contributes very substantially to the cricket teams that come here be it by way of facilities afforded, be it because of a little reception that the Minister may give which I think is only right, be it because of monies that we have given the Cricket Association. I must say we have never had a request from the Cricket Association other than a loan because they were quite a wealthy organisation but when they needed a loan Government did not shirk its responsibilities and came up with a loan.

MR SPEAKER:

Order. You are falling back into the same temptation. There has been a remark and you have answered the remark.

HON H J ZAMMITT:

I am sorry, Mr Speaker, I will not answer remarks. We have rallied whenever required to do so in the field of sport and therefore, Mr Speaker, I am not going to talk any more about that at all. I agree entirely with Mr Loddo about having to do more on the question of the historical sites in Gibraltar and equally I agree with the Hon and Gallant Major Peliza. That is a matter which I think my Friend the Hon Mr Adolfo Canepa mentioned as regards reviving Gibraltar's history by having a Military Museum and we are looking very closely and very carefully at trying to revive particularly the military history of Gibraltar for touristic attraction. Equally, of course, with conservation. I think the question of catering courses was answered by my Colleague Major Dellipiani and I do not think I have very much to reply to Mr Andrew Haynes. Mr Speaker, my very good Friend the Hon and Gallant Major Peliza, has had quite a dig at the tourist industry. First and foremost I think it is only fair to the Chief Minister that in the statement at page 7 the Chief Minister mentioned that "advertising increases had been curtailed", increases had been curtailed. We have remained exactly the same as we were last year after supplementary provision. We must not forget that I came to

this House and I asked for \$63,000, half way through the year when we subsidised the advertising for a Danish tour operator and we doubled our public relations in England and we put a little bit more into advertising. He asks what has this Government done of substance towards the tourist industry? Mr Speaker, 1982/83, in other words, since September 1982 when we started trade promotions in UK we more than doubled our trade promotions, in fact, I was in England so often that Mr Andrew Haynes did not like my attendance at the counter as I am so often urged by the Hon and Gallant Major Peliza to go, so I will have to ask the BFFG to make its mind up whether I should or I shouldn't not that I enjoy being away all that often but I seem to agree more with Major Peliza than I do with the young and Hon Mr Andrew Haynes. Mr Speaker, from September to March this year, 19 cities, that is, more than double of the trade promotions conducted in 1981/82 were conducted and to reduce costs instead of doing three I instructed that we should start on a Monday, Tuesday, Wednesday and Thursday and take in four into one trip. I regret that the Hon and Gallant Major Peliza has got his information somewhat wrong because although I am not going to go through the list that I have attended, I would say that from Portsmouth, West Country, the middle, south-east, Cheltenham, the west, Plymouth, then we went up the Swindon, Stockport, Huddersfield, Wakefield, Newcastle, Middlesborough, York and Nottingham, so we have done virtually all except we did not do East Anglia this year because we did East Anglia last year. We have been to Middlesborough, we have been to York and I am sure the Hon Member must know this. We have not been concentrating on the south-east that he was referring to. It is our main catchment area, let us not kid ourselves, the Crawley area is our main catchment area but we have gone around Britain and these 20 trade promotions have given me an opportunity of having 18 radio interviews.

HON MAJOR R J PELIZA:

If the Minister will give way. I was not saying that he had not been round, what I said was that we should get some operators, new operators, who could start bringing people from there and therefore we would have to subsidise their advertising and so on because obviously with the operators that we have now, the tour operators, it is not sufficient to bring more people from those areas whilst new ones might be able to do it.

HON H J ZAMMITT:

I will come back to that in a second, I have got a list of that, Mr Speaker. We have an operator which he left out which is Marshall Sutton that operates in York, in Beverley, and it does all the northern area but of course Cadogan are up the north and Exchange is in the north. I may be accused of being too blunt and sometimes wrongly interpreted but I make no bones about it. Tour operators or no tour operators, the main problem lies in lack of air seats. I think the Hon and Gallant Major Peliza will agree with that because my information, every time I go to England, is: "we would love to go to Gibraltar

but we just cannot get the seats". I am sorry if I upset any other airline or any airline or anybody else in the hotel industry, the rest we are all waffling about and I think Members find and people in Gibraltar find exactly the same difficulty when they are leaving. Very infrequently does one find surplus seats, invariably there are standbys at London and if any tour operator thinks that tourists are going to come down from Wakefield, York, Middlesborough or Edinburgh to Gatwick to see if there is going to be an empty seat at 20 past 8 in the morning then that person is in the moon and unless we have more flights to Gibraltar we are not really wishing to see the truth of the situation. Mr. Speaker, the awkward thing about air communications, if people care to look at statistics, is not that as some Member mentioned opposite, I think it was the Hon and Gallant Major Peliza, that if we had more then our load factors may decrease. Let me assure, and I have evidence to prove this, that our evidence is entirely the opposite. The more planes you have the higher your load factor and I think it has happened particularly in summer, Mr. Speaker. In summer we find, Sir, particularly on the Manchester run where there were invariably 100% load factors from Manchester alone, 100% load factor, and let me give the Hon Member opposite a personal indication that even as, I am grateful for the importance he gives me as Minister for Tourism, on one of the trade promotions that I went to England as Minister for Tourism with all my importance I couldn't get a seat ten days before and had to go to Manchester on the jump seat and that is the all-important Minister for Tourism. God help Mr. Perez or Mr. Garcia in Main Street who decide to go to England for a fortnight ten days before. That is the truth of our tourist decline, the lack of seats, and I have invited the Hon Member and I am not being sarcastic about this, Mr. Speaker, because I have a lot of appreciation for the Hon and Gallant Member opposite, I have invited him and I extend that invitation, I would like him to come with me on one of the trade promotions which hopefully will start next September and see and talk to the people and he will listen to the same tale of woe that I am faced with invariably. They say: "We would like to go out, we have a team a darts team, a hockey team, a tiddly-winks team, a group, bird watching, religious groups to Our Lady of Europe, we have written but they cannot give us 25 seats, they cannot give us 30 seats, that is the problem". That is the problem facing us today and it is against that that I too would like to put my little grain of sand of how much damage I think has been caused by the lack of concern expressed by the CAA to Gibraltar's vital air communications situation.

HON P J ISOLA:

Will the Hon Member give way? Has he read the judgement of the CAA and if he has how can he say the lack of concern on the Civil Aviation Authority's side? I read the judgement of the Civil Aviation Authority only a day ago, they went through all the evidence very, very carefully as far as I can see and they made a judgement. I do not think they can be accused, Mr. Speaker, of showing lack of concern for Gibraltar, in fact,

reading the judgement, their view seemed to be that to give the licence would have been against the interests of Gibraltar tourism. It is a matter of opinion, I know, but I think for the Hon Minister to say of a public authority in the United Kingdom that has gone into the evidence very carefully, to say after reading that judgement that they have shown lack of concern is being unfair on an Authority that is not here to defend itself.

HON H J ZAMMITT:

The lack of concern that I wish to say and I will do so, Mr. Speaker, as Minister for Tourism, I will say so, I have no allegiance at all to the CAA, none at all, or to any operator or operators. My concern is Gibraltar and, amongst other duties, Minister for Tourism, that is my primary concern and my primary concern is that if the CAA considers that Gibraltar can do without any aircraft on a Wednesday or on a Saturday, and I am not referring to the summer period because it was only three weeks since we had a Saturday plane stuck in, of load factors of 97%, the highest load factors in Europe and it does not warrant another competitor to come in the line, the same authority having said that they considered BA and GB to be one and the same operator and having in the not too distant past allowed Caledonian to be here, I think I am quite justified in giving my judgement of the situation as I see as no doubt I respect their judgement and they can say about me what I am saying about them. I was going to say, Mr. Speaker, that what I do intend doing is, in fact, we had asked for our advertising agents to come out this week but because of the budget the thing has been put back for another couple of weeks because I do intend to have a fresh look at our advertising in Great Britain. We have found that there have been some instances where advertising in certain papers, national newspapers has become rather expensive to produce and then the follow-up by the coupon response has been priced at quite abnormal prices and our experience has shown that we may have to advertise in a different way. I think, Mr. Speaker, I owe it to the House to mention that we are totally aware that the best advertising would be television and I mean, of course, television in Britain which is our main market and I would like to assure the Hon and Gallant Major Peliza that Britain will continue to be our main market with an open or partially opened frontier or even with an open frontier Britain will continue to be our main tourist market and we will not budge from there. What I would like to inform the House is that television today in Britain is prohibitive and if I mention, Mr. Speaker, that it is now costing at peak period, that is to say, at the time of the day or evening when viewers are likely to have a look at it, it is £1,700 per second, in other words, the time I have taken to say it would have cost Government something like £7,000. It is far beyond our reach. This year, Mr. Speaker, we put £15,000 in radio advertising four times daily on Radio Capital in London and the response was absolutely appalling. Again we were advised to do that and we were not at all happy with the situation, the response was very, very poor. It is absolutely right to say that Britain will be having two million tourists leaving

the British Isles during the course of the summer but again we must not kid ourselves, those two million tourists are tourists who are taking total advantage of the 205 pesetas to the pound, the 150 escudos to the pound and the strength of the pound works against us and we must not try and hide our head in the sand because we know it works against us and I think last night I heard a possibility of the peseta being devalued again by a further 8% which would mean that the rate of exchange will be something like 220 pesetas to the pound. Again that is the kind of competition we really cannot do very much about. I agree with the Hon and Gallant Major Peliza that we must do our utmost to promote and encourage all possible angles for the tourist industry in Great Britain and that whatever comes in from Spain with the partial opening, with an open frontier or with a closed frontier is a bonus but we are not going to put our eggs into that basket. Mr Speaker, on the question of the Advisory Board the Hon and Gallant Member is absolutely right, we have not met since August and there has been a very logical reason why we have not met since August and the reason is, and I can now say it, is because there is a member on the Board when we were talking about the possibility of Air Europe applying for a licence to Gibraltar who obviously was an interested party and there were objections from this particular firm and therefore we decided that during the time of the application of Air Europe until a couple of weeks ago that we should not have that because there had been personal accusations between members of the Board that could have had quite adverse consequences and there may be more about that in other spheres so I do not think I would like to go any further than that in the House, Mr Speaker. I would like to inform again the Hon and Gallant Major Peliza that we have carried out since last September monthly visits, I do not do Morocco, Mr Speaker, but the Tourist Office does go on monthly visits to Morocco having gone down as far as Casablanca and Rabat and we have advertised quite substantially in the Moroccan newspapers keeping in line with quite good touristic trade that comes in from Morocco. I do not give much credit although I will certainly look at this because I have not been approached about this departure tax of GB Airways to Tangier but I would tell the Hon and Gallant Major Peliza that that aircraft does receive very special landing charges by virtue of its repetitiveness in coming and going twice or three times per day. I do not know what I can do about the departure tax, I will certainly have it looked at but I have not been approached by the operator but it will certainly be looked at. We have been approached, quite rightly, by the Hotel Association in an endeavour to see what they can do to improve and better the product.

MR SPEAKER:

I would like to know whether you are going to go much further.

THE HON H J ZAMMITT:

I have another twenty minutes at least, Mr Speaker.

MR SPEAKER:

We will then interrupt your speech and we will have a recess for tea.

The House recessed at 5.20pm.
The House resumed at 5.45pm.

HON H J ZAMMITT:

Mr Speaker, Sir, continuing from where I left off I would like to inform the House and the Hon and Gallant Major Peliza that very recently we held a seminar for guides in Gibraltar very successfully and in fact something like 22.....

MR SPEAKER:

Tourist guides, I imagine.

HON H J ZAMMITT:

Tourist guides, Sir: Recently we conducted a seminar and a course of instruction for tourist guides by the Gibraltar Tourist Office and I think something like 22 people qualified to become licenced guides for the tourist industry. I would also like to inform the Hon and Gallant Member that we have considered and, in fact, we did consider the question of floodlighting the Rock face recently. The equipment is still there, of course, the sodium lights or whatever they are called would require a certain amount of re-adjusting and some installation problems I suppose. I do not think the cost is very very much but in all fairness I should also say that it was not considered to be extreme priority. It is not being dismissed and it is a matter that I think we can carry out without any great problems. Mr Speaker, where I would like to differ with the Hon and Gallant Member is on the question of the airline that he says Government should have shares. This has been looked at, we have had correspondence from interested parties for Government in some way to carry out an airline service supported mainly by Government funds, obviously on charter because I very much doubt that Government now would get a scheduled flight considering CAA's recent views, but it has its problems, not least of all the possibility of a possible pull-out of some of the existing operators which would be more damaging and it is a matter which would require very serious and considered thinking as to what could be done of benefit and not something that we would find ourselves with some form of retrograde step. It is a matter we have not dismissed and with which we are at present in negotiations particularly with the Hotel Association to see how best we can help the industry in these difficult days. What I would like to say, Mr Speaker, is that a recent approach being made, as I explained earlier on, about a possible reauction in municipal charges to the Hotel industry as mentioned by the Hon and Gallant Major Peliza and for the hotels to pour back those savings into a betterment of the hotel in fact they go as far as saying supervised by Government, seems to

be an idea that we can certainly look at but I would like to emphasise and I do not want to create animosity, is that I have had leave from Government to ask the Hotel Association to try and find if by reducing municipal charges by whatever percentage how could we reduce the cost and I regret to say much to the astonishment of many, including myself, the answer was: "If you gave us free municipal charges, excluding telephones, I must say, that is, rates, water and electricity, there would be no reduction in the price being charged to operators today". Although our water charges could well be, and I am not prepared to argue because I do not know that our water charges as stated by the Hon and Gallant Major Peliza is a hundred-fold what it is in Spain, I do not know that, what I can say is that I am aware that Spain is cutting its water supply off and therefore I think they would much rather pay and have a continuous supply of water than have as no doubt will badly affect the tourist industry in Spain when they find that in the not too distant future if the weather does not change that they may have a very difficult time ahead with the water situation in Spain. The municipal charges as they stand today account for some 10% of the total overheads of the hotel industry and that I do not think with great respect to the hotel industry, that that is the main difficulty in being able to bring their prices down in competition with nearby resorts. I think, again, in absolute honest truth, the situation why we cannot compete is the overheads mainly on wages which account for 80%-odd of their overheads and there I think there is very little we can jolly well do about it. A waiter in Spain is getting 970 pesetas a day and here they are getting that amount almost an hour so one can see the disparity there and that is something that I do not think I as Minister for Tourism or any other Minister can do very much about. Needless to say I will give total credit to the Hotel Association because, in confidence, they are prepared to show me exactly what they charge tour operators for the accommodation and I must say here that the price is ridiculous, it is sometimes unbelievable as to how hotels are able to give accommodation out at the prices they give the tour operators. If they went any lower my suggestion is they should go free, I do not think they can reduce their costs any more and must be very honest about that and I give them total credit for reducing their prices to the absolute minimum and I am afraid that they cannot go any lower than that but we must make it very, very clearly understood that municipal charges in no way affect the price structure of the hotel, as I said, it is 10% of the total overheads. Mr Speaker, that is the problem that we will look at and, as I say, they just came to me I think it was last week when the Chairman of the Hotel Association came to see me and has since sent me a letter on the situation which I am looking at and seeing if my Colleague can look at this and view this with some sympathy to see if at least there is a way in which we can help them to ensure that they are allowed to continue to improve their product. Mr Speaker, one of the things that I am afraid I will have to do in the forthcoming year is that as opposed to visiting England every month as has been my custom during the winter months, that is,

from September to March, I have decided that it would be proper if we carried out large trade promotions every two months and the alternate month, in between, to have more trade receptions in small towns or villages and when I say villages I mean smaller places. There will be trade receptions for the smaller areas where we can combine a visit of three or four days around small towns possibly within London, like Ealing, Richmond, or places like that where we can tackle a particular area. I would like to pay tribute, Mr Speaker, here to the enormous response and assistance that I have received and the Tourist Office has received from all the tour operators, from all the radio stations and from the British press wherever we have gone and in particular to the Travel Agents because it may surprise Members to know that we are the national Tourist Office that gets the best attendances at our trade promotions and an article will be appearing, I think at the end of April, in the Travel Trade Gazette highlighting our attendances which are quite abnormal compared to other national tourist boards such as Malta, Cyprus and the like, where the same tour operators that do Gibraltar have of necessity to attend and therefore they are first hand witnesses to see the reaction that Gibraltar receives and the support Gibraltar receives as opposed to the response received by other national offices. Having said that, Mr Speaker, it does not mean that there will be a saving other than possibly my trip as opposed to every six weeks or so it will become every nine or ten weeks, there will be a saving in that sphere; but of course trade promotions are expensive whether you hold it in Ealing or Richmond or Middlesborough. The set-up has to be exactly the same and therefore there will be very little saving there. Of course, we are very conscious of the need to continue plugging Gibraltar in every possible way and reminding people of our existence. I do not think that we lack support and friends in Great Britain, I think we have a tremendous number of friends in Great Britain and people who really have a concern for us and would like to do even more for us. In that sphere, Mr Speaker, one idea that we are going to conduct this year is that we are going to have a coupon slip with all our tour operators and travel agents and I must say here and now that it includes Intersum which is the second major tour operator in England with a circulation of some 670,000 brochures per annum. We are going to insert a little page somewhere in which we are offering that the tour operator and the tourist may be able to share the princely sum of £100,000. It is not that the Tourist Office is going to give £100,000, it is that we are going to hold a raffle or a draw here

MR SPEAKER:

We are getting into details which I think we must not do but go ahead and finish what you were saying.

HON H J ZAMMITT:

I was trying to say what we are trying to do promote and stimulate this, Mr Speaker. We are going to draw twenty of

these slips per year which means that the winner will be able to share a Christmas Government lottery draw, that may seem some way of encouraging the tour operators to further push Gibraltar. Mr Speaker, finally, I would like to say that I hope I have been able to convince the Hon and Gallant Major Peliza that we have not had a drawback or a clawback on advertising expenditure, we are a little higher than last year. We must not forget that the Denmark operation no longer exists and yet we have the same money so therefore everything is being poured into Great Britain and Tangier to try and make sure that we get the best. The other thing which I think is important is that it will be noticed in the draft estimates that I have transferred all the money that we spend in England on tourist promotion under the London Tourist Office as opposed to the Gibraltar Tourist Office and that has been done for two reasons. One is to make sure that we are all aware of what we are spending in England and, secondly, obviously, on the political line, that ODA can realise that we are contributing in some way back into the coffers and the Treasury of England in a small way by £270,000/£300,000 or whatever the figure is. Mr Speaker, that is all I have to say at this particular juncture and to add that the Government certainly is aware of tourism being the second major industry, we would not like it to become the first major industry, we would still insist in having a Naval Dockyard and we will do our utmost to try and see how best we can do within our resources to stimulate as much tourism as we possibly can to Gibraltar but with that I must say that it cannot and must not be left entirely to the Government to do every single thing, every Tom, Dick and Harry in Gibraltar must do his utmost. If the streets are dirty they need cleaning up but if people did not throw rubbish they probably would not need cleaning up so everybody directly or indirectly must contribute to making Gibraltar what it is, the pearl of the Mediterranean and bring as many tourists as possible to Gibraltar.

MR SPEAKER:

There are only two other Members who can contribute to the debate, the Hon and Learned Leader of the Opposition and the Hon Mr Bossano. Are there any contributors? Then I will call on the Chief Minister to exercise his right to reply to the Second Reading of the Finance Bill.

HON CHIEF MINISTER:

I am prepared to give way to our late comers, I do not want to jump the gun too quickly.

HON P J ISOLA:

I should explain, Mr Speaker, as I explained last year, that I do not propose to speak before the Hon Mr Bossano. We are six Members on this side of the House and we know that the Hon Mr Bossano's party can hardly be referred to as bed fellows to the DPBG and we also know that Mr Bossano has a

nasty habit of attacking his DPBG colleagues in the House of Assembly and therefore we choose to await his contribution which we are all, I am sure, very anxious to hear in this very important year but obviously we would want an opportunity to deal with any points that he might wish to make that affect my party. As I said last year, as far as we are concerned the DPBG policy has been set out in full and much as I would like to win up I won't take that privilege until the Hon Mr Bossano speaks.

HON CHIEF MINISTER:

Mr Speaker, I did not stand to speak straightaway as I did not want anybody to think that I was anxious that there should be two less speakers. As far as we are concerned we would have equally welcomed the two speakers to have spoken in which ever order they might have agreed or it might have come out, I have no comment. We consider that side as the Opposition, this is the Government. If there is anybody who wants to cross the floor I will only give him one month, I have already had two people who crossed last time but not at the last moment, I won't have any at the last moment, we just do not make Ministers that easy. Mr Speaker, I won't be very long. Quite a number of the points raised by the party statement on the budget read by Mr Restano, a fifteen page report, most of the new points made have been answered by Ministers who have spoken. I do not propose to go through it because it is a cumulative statement of all the points that have been made by him and his colleagues ever since he left the GDM and joined the Opposition. It is like a scratched record which is so old because the same one has been put again and again and again. All about you should have done the IDD when we told you, you should have done this. I will not give way, I am speaking in reply and I would give you notice, Mr Speaker, I will not give way except to the Leader of the Opposition or to Mr Bossano on any matter for clarification. Anyhow, I do not propose to go through all that because we have had it before many, many times and I can understand them making a Party statement and having it mostly prepared and having the last page to put in whatever proposals are put out in the last moment in the budget. But there are a number of points of general interest that I consider it my duty to mention because they are of public interest. I think one point was raised there and that was the question of asking the new Minister of Overseas Development to come out in view of the failure or perhaps the lack of interest on the part of the difficulties that there was on the part of the previous one. I would like to tell the House that an invitation was extended some time ago to Mr Raison when he took office and that he is, as far as we are concerned, considering the possibility of a visit to Gibraltar sometime in the near future. That was one of the new points because Mr Raison was not a Minister last year so it could not have been included in last year's statement. There is one point made by Mr Scott which I will take up. I think I read a report recently which makes me feel that it is quite alright but he did mention the fact whether there was proper inspection of the cable car. Well, I take the

point, I have not had time since he made the point this morning but I think I saw a report recently on an inspection but it is one of those matters that one welcomes that they should be raised because it refers to public safety and whilst one is doing ones best one of these things could be overlooked and I will undertake to look into that matter because if I remember rightly when that was raised in the time of the City Council there is an appointed officer under the terms of the licence who has a duty, at one time it was the mechanical engineer, Mr Coombes, who used to do it, I will have that looked into. What has surprised me about the intervention of Mr Haynes is his incursion into foreign affairs. He said one or two things which I think it is a pity that the Leader of the Opposition has not spoken because I would certainly like to know where we stand on this situation because he has said that the softly, softly approach does not work, that we need a bold approach and that we have kept quiet for twenty years. Well, as it happens it is twenty years since we first went to the United Nations to fight about Gibraltar and after that we were there in 1964, 1965, 1966, 1967. I also went with Mr Xiberras in 1974 fighting on the question of Gibraltar and in fact if there are any criticisms about the approach to the question of Spain and foreign affairs, that criticism has to be shared with the leader of his party because all the calls for unity that there have been in this House throughout this debate and so on, if there is one on which certainly the official Opposition and the Government have been agreed is the question of the bi-partisan approach to foreign affairs. If Mr Haynes is a spokesman, an official spokesman of the Opposition on the question of foreign affairs then it looks as if the idea of a bi-partisan approach is being abandoned and that the Opposition is going its own way because the approach is softly, softly which is attributed no doubt only to me has not worked. I would want clarification of that either inside or outside the House because I think this is of vital importance. If the statement by Mr Haynes is not denied by Mr Isola then I shall take it that we are put on notice that the bi-partisan approach on foreign affairs is at an end and then we shall have to see how we go ahead on this matter. If in fact it was just another of those irresponsible attributes which the Hon Member is used to, then I would be glad to hear the Hon the Leader of the Opposition tell me that the question of the bi-partisan approach is not at an end. If it has to be at an end it will be a sad day, Mr Speaker, but we will have to face it because this is the way of politics. We have to adjust ourselves to the new situation and see how that will take us. Certainly, being together on this has had its great advantage in many ways because there has been a time where with one dissenting voice we have spoken on behalf of the people of Gibraltar as a whole.

HON P J ISOLA:

Mr Speaker, if the Hon and Learned Chief Minister would give way. I think he is making a mountain out of a molehill, if I may say so. I think any Hon Member, both on that side of the House and on this side of the House, is entitled to make statements about what he feels on the situation and the

frustration that he may feel on the way our affairs are conducted by Her Majesty's Government and I would not object to that, in fact, the Hon and Learned Chief Minister's friend, Major Dellipiani, I thought at the last meeting of the House had a lot to say about the Ministry of Defence and the Base and what he thought they ought to do with it and so forth and today in his contribution he said things which I hope are not the policy of the Hon and Learned Chief Minister. May I say, as far as foreign affairs is concerned, I speak for my Party and I speak for my Party after consultation with them. If the Hon and Learned Mr Haynes who is perfectly entitled to make his comments here feels that that policy ought to be changed he will no doubt ask me to take steps to do it but as far as my Party is concerned we have gone along with the bi-partisan approach which Mr Speaker, I should say, has not been to the political advantage of my Party and I think it is wrong on the part of the Hon and Learned Chief Minister to try and make a speech to the public saying; "The DPEG are now breaking the bi-partisan approach", that is not so. A Member of the Party has given his views as he is perfectly entitled to do, he might be seeking support for his views which he supposes he cannot have majority support on my side from the other side as well because it is a bi-partisan approach, even from the Chief Minister himself, but I must tell the Hon and Learned Chief Minister that we on this side have been very surprised by the very outspoken statements that have been made by some of his Ministers in relation to matters in which we would have hoped also for a bi-partisan approach.

HON CHIEF MINISTER:

It is precisely why I said at the beginning that I would only give way to the Leader of the Opposition and Mr Bossano who has not spoken because I hoped to provoke him into saying what he has said. This is deliberate because it is in the public interest because of course every Member is entitled to make a statement and of course Members feel very strongly on one aspect of the matter and they have an outburst of it and good luck to them but this was different, this morning when we see the Hansard it will be noted that it was not just an outburst it was a very important part of the contribution in the debate on foreign affairs. It is the first time that anyone, even Members of my party other than of course Mr Bossano and the Hon Leader of the Opposition and myself have gone to such length on matters of foreign affairs in this House. That is why I have highlighted it. Of course, he is entitled to have his views but the views put forward this morning were so much at variance with the attitude that we have both taken over the years that they have to be highlighted and I am glad to hear the Hon Member make that but it is not unfair of me to do so, it would have been unfair of me not to have done so and then to raise it with him in private, that would have been different because then it would have looked as if we were looking for positions outside in order to be able to carry on in a policy that was cracking. Well, if the policy is not cracking I am not delighted but it needed that statement from the Leader of the Opposition to put right the

very wrong impression that the contribution of his Member who spoke about this in such length. I took particular note of everything that he said most of which, of course, was nonsense but, anyhow, it did affect and did say that we had to have a bold approach, we had kept quiet for twenty years, we had to decide on our economic independence, we must get those gates opened. Well, I wish him luck if he tries on his own. Perhaps if he were to get a respite from his leader and allowed to be going across the way and do his own researches there he might perhaps be more successful and at the same time satisfy, no doubt, a longing wish to do so. Anyhow, be that as it may, we pass on now to the rather longish contribution of Major Peliza this afternoon. Just on one point, I think. He stressed first of all, that it was very wrong of me to suggest that though reprehensible, as I think he said, the action of the union was about the fleet, that I should have put in question the Britishness of the unions. Well, I don't know, perhaps he does not get the press releases of his party but if he looks at the press release of his party on the matter on the 13th of April, first of all it is couched in much more critical and destructive terms, I would call it, into a Trade Union activity than the press release issued by the Government, by myself on behalf of my colleagues, because of the blacking of the British fleet so that the word British is in the second line of the communique. As it happens the second line of my communique spoke of the Royal Navy, I did not bring Britain in so quickly as the other release did. And then it went on to say: "Whatever apologies and qualifications they may make for their action the truth of the matter is that they are blacking and interfering with the efficiency of a fleet whose visit to Gibraltar despite protestations from the Spanish Government is wholeheartedly welcomed. The DPEG considers that the Trades Council leadership is irresponsible in their action and very much doubt it should have the support of the overwhelming number of working people in Gibraltar". And then it went on to say: "The present action far from achieving this objective can only result in serious risk of adverse publicity in the British press and loss of support from those many Members of Parliament, and especially the British/Gibraltar Group who are fighting to keep the Dockyard open". Which is, of course, more or less the sentiments that were expressed in the press release of the Government except that the press release of the Government was in more restrained terms and did not question as we do not for the moment whether the leadership had the support of the union or not, that will remain to be seen on another occasion. The nonsense spoken this afternoon by the Hon and Gallant Major Peliza about the fact that this was an unwarranted attack on the union I would leave to the unions to decide whether the approach that we have, despite our criticism, to their right to decide whatever action they think fit if we consider them to be against the public interest is or is not more in keeping with the British way of life of looking at British union activities than the attitude taken by being appalled as is stated in the DPEG press release. One other point that has been mentioned by several Members is the question of GBC and I normally answer questions but I always

make it quite clear that GBC is an independent entity and that therefore matters of policy are decided by the Broadcasting Corporation and not by the Government. I had a note here to say that I had asked in respect of the question of advertising. I had asked GBC for some information as to the extent of income that they derive from that kind of advertising despite the fact that we have cut them very, very severely this year and they have to readjust their budget to the extent that we have cut a considerable amount but I have now received a letter, a copy of a letter addressed to the Leader of the Opposition, about another matter which I need not deal with because I am not answerable to that, perhaps he may want to give this publicity or not, I do not know, about whether Mr Bossano was interviewed, raised by Mr Restano, whether Mr Bossano was interviewed and we were not. Apparently Mr Bossano was interviewed on behalf of the GBC on a matter on which the DPEG and the Government had made statements. Be that as it may, I am not dealing with that, but the letter says, and I only read it because it has a bearing and it is the view of GBC as expressed to the Leader of the Opposition and it pinpoints

HON P J ISOLA:

Can the Hon and Learned Chief Minister confirm that he has received this copy about twenty minutes ago?

HON CHIEF MINISTER:

That is right. I was saying that before I got this letter I had in my notes to say that I had asked GBC before the session of the House because I also was interested on the question of Spanish advertisements, or advertisements of property and goods in Spain, I had already, that can be confirmed, I had already asked GBC to give me some idea of how dependant; how much money was being collected to put in the balance the disadvantages and the advantages because when we were cutting their budget so heavily it would be very difficult to justify if the amount was considerable, to justify indicating to them other than through statements that have been made here, that they should not proceed with that advertisement, so I wanted to know what the extent was. I have no hesitation in saying that if the advertisements were to be able to do enough to dispose of the subvention of the Government, I would certainly have no objection if they wanted to advertise because the subvention is over £½m so that the point is it is all a matter of proportion and it is that that I wanted to explain to the House as I have on my notes for reply, but I have had this letter a few minutes ago and I refer to what is said in the letter: "May I also say in passing that in order to make both ends meet the Corporation has had to resort to the acceptance of advertising for Spanish products but not all these advertisements come from Spain. At least two of the property advertisements come from Gibraltar firms and we cannot turn away Gibraltar business and at least one comes from the UK. Spanish advertising accounts with these exceptions amount to about 7% of all advertising on GBC". Well, I would want to know how much of the 7% of the whole

advertising is and how it bears to the general subvention. "It should also be borne in mind that in many cases the advertisements have been placed on GBC for the benefit of expatriates living on the Costa del Sol e.g. Malaga airport car park, Rolls Royce service agents, Optica Maruenda etc." Well, certainly the Rolls Royce service agency that I know of would only have satisfied one Gibraltar customer who is privileged to have a Rolls Royce, there are not many of us who have Rolls Royce in Gibraltar. I think I ought to make it quite clear that whereas one sometimes dislikes the advertisements as much as Hon Members opposite, one has to find out exactly what benefit it is bringing to the Corporation and to what extent the subvention would have to be increased or not having regard to the amount of money if one expected them to give it up whilst one is attempting to persuade them to become much more profitable in order that the subvention will be reduced, it is a question of balance. Mr Speaker, it is a pity that we have not had the two contributions that would have been expected on the debate, perhaps we will hear it in another debate, I don't know, I suppose there is still another chance, certainly the Government will be quite happy to hear the views of the other two Members opposite who have not spoken. We have prepared this budget fully cognizant of the serious situation that we are facing, we are at the crossroads, so to speak, we have a difficult future, we cannot foresee what is going to happen, certainly we know that there will be employment for half of the financial year or three quarters of the financial year at more or less present levels but there is no doubt that the original announcement of the closure of the Dockyard has depressed and restrained many people from entering into financial commitments, I think the Financial Secretary has said so, we know that savings are going up considerably and therefore to some extent people are being wise in the sense that they want to put aside money in case difficulties come, that is something which is only prudent for people to do if they feel they have possible jobs at stake, that has depressed the economy to some extent added to the recession and added also to the difficulties at the frontier that take away the confidence that is required if we are to pump money into Gibraltar from outside to activate the private sector of the economic activity that is so essential if we are to become as we would dearly like to become economically independent. The Dockyard has been spoken about, I spoke about it at the opening and I would just like to say a few words before we finish. Major Peliza said that he well understood the obligation of the Government to pursue the study that is being made about a commercial Dockyard which has required months of study by teams on both sides. He, of course, may be right but he has made his own judgement on his own assessment of the situation and he has come to a conclusion. We do not know whether after months of going and coming and with experts, advisers, consultants, appraisals, we will come to the same conclusion or not. If we do not come to the same conclusion it may well be that he has not got his facts right, if we come to the same conclusions then it may be that it is easy to decry something before you know what it is but at least I am glad that he appreciates and, indeed, as the Leader of the

Opposition has done from the beginning, appreciates that we have to look at the possible alternative but the reason why we feel doubly strongly about the Dockyard is because it is the presence of the Dockyard over the years because of Service requirements and not for the benefit that it has brought to Gibraltar itself that the economy has for so many years been geared to the question of the Dockyard. I remember in the days of the IWFEP when it was said that the Dockyard economy was a greater safeguard to Gibraltar and we used to say the Dockyard could be here today and gone tomorrow. Unfortunately, in that respect we have been proved right certainly up to this moment because if it is not next year it will be the year after and at some stage an alternative will have to be found. If one day we find an alternative, be it now or later, that is successful and that provides employment and economic activity for the people of Gibraltar, then we will perhaps at the same time because this is the irony of the whole question of, what I would say the conflict of the thinking of the difficulty, I would put it this way, I am not saying conflict, of the Trade Union Movement where on the one hand most of the trade unionists would want to see the last shackles of colonialism to be removed but at the same time because there is so much dependence in the economy of the continuance of the Dockyard that they cry out for the continuation of something which means dependence, more dependent on Britain than would otherwise be the case or would otherwise have been the case had Britain not required it for as long as it has and it is because Britain has required it for so long and because we have become dependent on that because of their requirements that we have the right to claim that something else equally viable must be put in its place. We have the moral grounds, we have commitments of sustaining the economy. It is proper that it should have been said and it is proper that it should be discharged because it is a responsibility which has been created over years of requirement and now comes the time for reckoning and we hope that the result one way or the other will be such that Gibraltar will not suffer unduly due to the results of what now, again, Major Peliza has said is a natural result of defence strategy whereas at the last meeting he was brandishing about a book by Mr Keith Speed to say that it was proper that we should return to the old system of defence where Leander frigates would be required to be maintained and the Dockyard could be kept open. If the Dockyard has to be kept open until something else viable is found beyond a period remains to be seen after the last reports are considered. For our part we feel that if as a result of the discussions, I am speaking politically, if as a result of the discussions it were found either by the British Government or by the Gibraltar Government or by both that a commercial Dockyard is not viable, the British Government has got a duty to keep that Dockyard open until an alternative viable economic activity is found in order that the standards of the people of Gibraltar are not to be thrown away just because of a White Paper.

MR SPEAKER:

I will then call on the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, before moving on to just a few points on which I would like to speak. I have no wish to dabble in politics this is not my remit but I would like to say that if the new system for debating the budget has in any way exacerbated the problem of who speaks when, then I apologise to the House, I hope it hasn't, I don't think it has, but if it has then I am sorry.

MR SPEAKER:

May I dispel any guilt you may have. This is not the first year that we have been faced with the same problem.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the Hon Mr Restano used the words "the estimates of revenue and expenditure are perhaps slightly misleading to the average man on the economic effects of the open border" etc. I am sure that he did not use the term 'misleading' in any pejorative sense, I am sure he would not suggest that the Hon the Financial and Development Secretary would wish to mislead. What I would agree, not misleading but they are opaque rather like Foreign Office drafting, difficult, opaque, you cannot really see through them as to what the effects are. I agree entirely with that and that is why we try to give and can give during the Committee Stage of the Appropriation Bill we perhaps can pin-point those areas where it is costing us much more money and where there is no counter-balancing revenue. There was also mention that on the cuts of import duties that affect the cost of living index, clothing and shoes, a small point, but in fact these have no really significant effect on the cost of living index at least so I am advised by the experts. I see the Hon Member is looking at me with some surprise. The Hon Mr Scott in speaking on the investment talked about the need for greater investment in micro-computers. I endorse that view and it was with great reluctance that I had to cut out of the departmental requests for expenditure this year, requests for additional micro computers, the fact of the matter was that we could not afford them and balance the budget. I had to knock out my own department, I had to knock out other departments, I hope that when the economy is on the up-swing we will be able to afford to buy them because they are needed in a number of areas and I agree with him but I am sorry we cannot afford them. He also mentioned £1m for the repayment to the electricity borrowing. Well, in fact, the total figure in the Consolidated Fund charges is £1.3m but of that £0.7m is repayment of loan and the point here which perhaps I should explain to Hon Members, is that it is a short term loan because we got it on soft terms on supplier finance, that is 8%, the documents were laid on the table and Hon Members will remember, but it is a shortish term whereas bank loans that we get are normally longer term and of course in applying the cost and interest charges to the actual fund, the Electricity Fund, we are amortising the buildings at a

certain rate and the actual plant at a different rate over a much longer period not merely over the period of the loan so that there is not a heavy front loading on the fund of the cost of the electricity. Fuel oil: In fact, the Hon and Learned Leader of the Opposition raised this during the Second Reading debate on the Appropriation Bill and I was going to try and answer him then but he happened not to be in the House but I have had some figures from Shell Company showing how actually the fall in oil price has been eroded by the weakness of the pound against the dollar and I will circulate to all Members of the House for their information a copy of the table which he sent with his letter, I think it is quite interesting. The Hon and Gallant Major Peliza talked about the £4m debt and that the debt is not being collected. This is not strictly true, it is being collected, the Accountant-General is in constant battle with people who owe us money to get debt scheduling, repayment over a certain period and we have been very successful in doing that and, by and large, people and companies who have got into debt are paying on the schedules they have agreed. Some do not honour them and then we have to start cutting services and we are cutting the services in a number of cases but the Government has no wish to pull the rug from under any company or anyone in the trade and obviously we are looking at the financial position, the various people concerned, and agreeing repayment schedules which they can afford and that is our policy. The Hon and Gallant Major also talked about income tax. I think actually he is quite right, of course, I did acknowledge the fact that the disparity between ourselves and the United Kingdom is much higher but I think that in quoting the figures he did give, if I may say so, the married couple allowance and compared it with our single personal allowance, in fact, there is a great disparity it is over \$1,000 but not quite as large as the Hon Member led the House to believe. Of course we have also got, as I said in my speech, to compare the effects of taxation between Gibraltar and UK, we have got to look at the effects of indirect taxation which is much higher in the UK and also the fact that in the United Kingdom they have got two horrors, if I may call them that, one is the capital gains tax and one is the capital transfer tax. Horrors not in terms of collection but the administrative cost, we have looked at these, the administrative cost of running these would be extremely high in Gibraltar. I think, Mr Speaker, these are the only points I wish to comment on and I commend the Bill to the House.

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

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon K 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 Pcliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I have been caught short. I expected this debate to go on until a little time tomorrow morning and I had deferred preparing my definitive speech on the Appropriation Bill which I will warn the House will not be long, until I had heard what was being said.

MR SPEAKER:

We will then recess until tomorrow morning at 10.30,

The House recessed at 6.45pm.

WEDNESDAY THE 20TH APRIL, 1983.

The House resumed at 10.40am.

MR SPEAKER:

I will remind the House that last evening we finished the Second Reading of the Finance Bill so we will now proceed with the Second Reading of the Appropriation Bill.

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Appropriation Bill be now read a second time. I spoke on the Appropriation Bill in my budget speech and I only want to say a few words to put a slight gloss on what I said then. In preparing the estimates this year we assumed, rightly or wrongly and it is a matter for opinion, that the current restricted border opening would continue throughout 1983/84 and that the Naval Dockyard would close on the 31st December, 1983, and that it would not be replaced by any other facilities, possibly an over-prudent view but one which I thought necessary. When the draft estimates came in we found that the general position was that the Consolidated Fund Balance would drop from about £11m as at 31st March, 1983, to a mere £4½m as at 31st March, 1981. In advising the Government I felt it essential that leaving

aside budgetary contributions to the funded services and to the Improvement and Development Fund, we must balance the recurrent budget and not go for a deficit budget. My reasons for doing this were four-fold. First of all, we have got to go to the London Market this year to borrow money, we are doing quite well in the amount which we have collected on our debentures but we shall certainly need to go to London Market and our approach would not be helped by having a large deficit budget. I am not saying that we would not be able to borrow the money, it is merely that the amount that we would have to pay for that borrowing would be much higher because the risk would be greater for the people who are lending the money to us. Secondly, with a large deficit budget we would be unable to make any further contribution for development to the Improvement and Development Fund during the course of the year, we have already set aside £1.5m as disclosed in page 5 of the draft estimates on hopes that as the year progresses we may be able to allocate more for development particularly for the development of housing. And thirdly we would have a serious cash flow problem this year particularly with the current level of arrears that I touched on in my budget speech towards about three quarters of the way through the year we would be having problems. And, finally, if one assumes that the Dockyard was to close and that it would not be replaced by any other facility immediately, then we must have reserves to meet the initial impact of that on the cost in unemployment pay in the final quarter this year and in the subsequent quarters. And so what we tried to do was to contain expenditure without reducing the services provided by the Government to the people of Gibraltar and, basically, in very broad terms what we did is we took off about 6% of the revenue bids by departments. This was not the same right across the board, some departments took rather heavier cuts than others. Take, for example, the Audit Department, your room for manoeuvre there is extremely difficult and as the Hon Mr Scott pointed out in his speech on the budget, where the heaviest cuts lay were in Other Charges and this is inevitable if you are trying to cut public expenditure quickly. If you are going to go for cuts across the board and particularly on PE it is going to take time if you are going to avoid nugatory expenditure. Lord Armstrong, when he was Permanent Secretary to the Treasury in the 1970's and we were trying to cut expenditure there, said that reducing public expenditure is like stirring treacle, a lot of vigorous activity at the centre with ripples going out towards the edges and my own experience in the British Treasury on cutting public expenditure is that you need a period of three to five years to enable you to do this if you are not going to erode seriously the standard of the services which the Government is providing for the public. And so, Mr Speaker, it is against this background that the revenue and expenditure estimates were prepared and clearly the House will wish to look very carefully in going through the various Heads of Expenditure to see where cuts have been made and express their views on these. I do not think that there is any need for me to go any further into this, Mr Speaker, it is just a slight gloss on what I said but I hope it will be useful to the House in looking in the Committee State at the estimates. Sir, I commend the Bill to the House.

MR SPEAKER:

I will then ask the Hon and Learned Chief Minister to exercise his right to speak.

HON CHIEF MINISTER:

Mr Speaker, the new procedure which we followed this year made me cover in my statement in support of the Finance Bill some of the things I would have said in the Appropriation Bill. I tried to concentrate on both aspects of it and therefore a lot that I have said in my statement, had we followed the usual practice, would have been said in this statement under this Bill rather than under the other one and therefore I must refer myself to that generally. With regard to the question of cuts to which the Financial and Development Secretary has referred, I would like to expand a little on something rather interesting which my Hon Colleague, Major Dellipiani, mentioned yesterday about the way in which cuts are made in Government and that is that Heads of Departments, in consultation with their Ministers, produce their estimates as they would like them to be ideally and that prior to that the Financial Secretary and I decide on a strategy about the extent having put all of them together, the extent to which we can bear the expenditure proposed and the extent to which we have to cut in order to be able to balance the budget in a way that will be producing other revenue which can reasonably be expected having regard to the very special circumstances of this year. The budget can be balanced with a modest surplus (a) because it is ideal and better and (b) because of the presentational effect that it has not only with regard to the question of borrowing but generally with regard to the question of people who come to invest in Gibraltar to find a budget which does not allow for the expenditure to be covered by the current revenue. Whilst we were lucky and perhaps had some foresight in accumulating a substantial Consolidated Fund balance that is somewhat relative and in fact had we not done that we would not have been able this year to make a contribution from the Consolidated Fund in order to be able to carry on with some of the essential social requirements which unfortunately are not covered by the parameters of the help that is being given under ODA and in fact Ministers do fight very hard in Council of Ministers and in the budget discussions for their departments and they are listened to with care and eventually they have to accept the cuts after hearing them, to make sure that the essential services are kept there. It is no use saying: "Well, alright, I agree to the cuts but I will need more money and I will come for it in the course of the year". That would be a false presentation of the budget and in fact it is necessary not only for Ministers but for the cuts that are made to permeate down the line so that everybody who is involved has a sense that he has got to abide by the parameters set out and by the expenditure authorised in the departmental estimates and not to come very quickly for supplementaries for the simple reason that having regard to the nature of our finances this year there are bound to be some supplementaries of unexpected expenditure and so on but there

will not be funds for supplementaries on the recurrent budget without having recourse to much money either from the Consolidated Fund or from borrowing and therefore it is incumbent upon accounting officers to maintain their expenditure within the parameters of the departmental budget and the cuts and to live with them and to adjust them. This brings about sometimes strains and stresses particularly in the question of overtime a considerable amount of money has to be saved to some extent and of course there is overtime which in any case is bound to be paid under the contractual conditions of employment, say, like the nurses. Members of the Opposition referred to the high payment in some respects of Prison Officers and others, well, it is necessary by virtue of their terms of employment that even working a purely 39-hour week to pay overtime because their conditions of employment provide that sometime which is worked within the 39 hours over a week-end is paid at overtime rates. The same applies to some of the other services like the Firemen and so on. With regard to the Police, regular overtime was paid when the police was not manned to cope with the situation that had arisen. It started off at 48 hours regular overtime, it was reduced to 44, I think, when the first big increase was made under parity following on, I think, shortly after the election of the Conservative Government who had committed themselves to provide more money for law and order and therefore the police salaries were substantially increased and in parity terms in Gibraltar well over and above the increases paid to other people under parity in other sectors and we were able to cushion off the 48 hours to 44 hours and then on the next review again it was reduced until they are now working 40 hours on norm, I do not know whether it applies to 39 or not, I am not quite sure, anyhow, they are working on a regular basis but of course the nature again of police duties and requirements make it necessary occasionally for overtime to be paid. One only has to read the English papers to know that we are fortunate in that we have not got problems of football matches where people go mad and they require considerable reinforcement from police from the next County or other kind of GND demonstrations and so on which require extra police to keep the peace and not just to stop trouble but there are occasions when a situation arises when police have to be called out and paid overtime and that of course is provided but they are now working on a regular basis insofar as the roster is concerned hence the need to get additional recruits as has been pointed out which will have to be reflected later on by a supplementary because it did not come in time to be put into the estimates. That is one area, there are other areas which I pointed out in my original speech about the postponement of the purchase of some kind of equipment, if it can wait. Sometimes it is a false economy to leave it for too late because it is much more expensive to replace it but naturally every department demands the ideal and it is for us to carry out the necessary cuts to be able to maintain a reasonable balance of maintaining essential services without frills. Unfortunately we are not in a position to provide frills but as I said in my original intervention, we have to make an effort all of us here and outside, make an effort in a

difficult time because we face difficulties and if we do not do that and try to produce reasonable results from our endeavours be it in employment, in industrial work, in non-industrial, then of course we would be heading for very serious trouble and people would not have the advantage that they have now certainly in the Government of Gibraltar, of their secure employment in reasonable terms and conditions that I think can stand the test of any comparison with any other modern society and for one thing you know that you can get paid at the end of the month and you are not owed arrears as one hears in so many other administrations. Thank you.

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 Appropriation Bill?

HON J BOSSANO:

Mr Speaker, I know Hon Members are eagerly awaiting my budget speech. The House will not be disappointed in what I have to say. Before I do so, however, there are two small points that I would wish to dispose off.

Let me first say that, as you so rightly observed yesterday, I have not spoken since the start of the Budget debate except to say 'No' at voting time. On this occasion, breaking with my normal practice of 11 years in the House, when I have always allowed myself to be interrupted, this time I do not propose to give way to any Hon Member, so no-one need try.

I am speaking on the General principles of the Appropriation Bill, as I have done every year except 1979. The Leader of the Opposition need not have worried about rounding up yesterday as I had no intention of speaking. But there is something I must clear up because it was quoted last night on television. The Hon Mr Isola said he would not speak before me since I attacked his colleagues and he had to follow me to defend them. Last year, Mr Speaker, I attacked no one and was followed by Mr Isola who mounted a virulent attack on me, coming to the conclusion that I was living in "cuckoo land", to such an extent that the Chief Minister, in his reply said: "I notice that the Hon Leader of the Opposition has taken double the time in dealing with Mr Bossano than he has in dealing with the estimates."

I trust GEC will quote me on this to put the record straight and let me add that any member of the public can read Hansard of March, 1982, and verify the facts for himself. Let me say, that my analysis of the situation today is the same as last year, except that we are 12 months closer to disaster.

I stand today, Mr Speaker, by every word I said then and I do not intend to repeat any of them. My analysis then of the economic situation, rejected by the Opposition, described by the Chief Minister as the "worst possible scenario" is basically the picture described in less emotive language by the

Hon Financial and Development Secretary, in his presentation of the state of the nation at this budget time. I accept entirely his description of the situation in which Gibraltar finds itself. There is, however, one point with which I fundamentally disagree. It is for me a matter of policy, a political choice, which I will deal with later and have some harsh things to say about it.

I am sure the Hon Member will understand that my criticism will not be directed at him. Let me say at this juncture that I have the greatest possible respect for him professionally and as a man. Gibraltar is losing the best Financial Secretary it has had in the time I have been a Member of this House. It is also losing the shadow Financial Secretary, Mr Speaker. Since I spoke at my first budget in 1973 I have given the House my own independent assessment of the state of the economy and provided Members of the Opposition with the services of a Shadow Financial Secretary. In 10 years I have spent 25 hours analysing the economic structure of Gibraltar, my longest effort being some 4½ hrs on the impact of the Scamp Report in 1976. I no longer intend to do so. This year I will be giving a political reply to this budget. Perhaps the Chief Minister may not say hear, hear when he leads the political reply. Let me explain the difference. If there is an economic crisis we must ask ourselves certain political questions. What is the cause? Who is responsible? And what is the cure? The immediate conclusion I come to is that the budget measures announced will not cure the crisis described by the Financial Secretary so on that count I reject the budget and have voted against the Finance Bill. I will also vote against the Appropriation Bill and give additional reasons for both these decisions. I have in the past blamed the UK Government for the state of the economy and come under attack for doing so. If I accept the arguments of the Chief Minister in this respect, then I must hold him responsible for the state of the economy. In 1981 he said:-

"I take particular satisfaction in being associated with a budget which reflects, against all the odds in a world recession, a prosperity in Gibraltar which could never have been foreseen when the UN were informed that Gibraltar could not live without Spain." and claimed this to be the result of Government financial and economic policy. Where are those sound policies today? He took the credit in 1981 for the sound economy he must take the blame now for the state of near collapse. Or was it as Mr Isola argued in 1981 and since then that the over-taxation introduced in 1980 had produced and continues to produce a revenue bonanza. I do not believe either of these explanations to be correct. The explanation is simply and easily accessible to anyone that understands the economic structure of Gibraltar. I fear that in spite of my explanations of the last ten years, Members still do not understand how the economy works to judge from the statements they continue to make at budget time. In 1980, Mr Speaker, after the last General Elections, against the background of the Lisbon Agreement signed in April, I gave broad political support to the Government's approach of "prudence", "cautiousness" and "consolidation". To such an extent that the Hon Major Peliza, accused me of behaving like a Financial Secretary instead of an Opposition

Member. His party said that Gibraltar was over-taxed and taxes should be reduced. In 1981 the Chief Minister again adopted the cautious prudence approach and Mr Isola again said we were over-taxed.

In 1982 and again this year, we have had the same basic statements from both sides. How can one adopt an unchanging attitude to deal with changing economic circumstances over a 4-year span?

Mr Restano said this year "the new estimated consolidated balance at 31 March, 1984, of £8.4m following taxation measures reflects a healthy position".

That is not the analysis of the Financial Secretary and is not mine, but I accept however we could both be wrong and Mr Restano could be right. I will therefore direct my criticism against the Government on the assumption that the position is not a healthy one. Let me first deal with the Dockyard closure and the GTC action. The selective industrial action of GTC has produced more publicity about the Dockyard closure in one week in the UK National press than we have had since the White Paper published in 1981. All of it sympathetic to our case.

There has been no hint Mr Speaker, of the UK papers portraying the action as pro-Spanish and anti-British. As the Chief Minister rightly pointed out, I would not allow my political views to colour the advice I give the Trade Union Movement. But the GSLP gives its full political support to the GTC. It endorses its action and congratulates workers warmly on their magnificent response. The action also enjoys the full support of the National Executive Committee of TGWU and the other UK based Unions. The Trade Unions in Gibraltar, Mr Speaker, will not however be influenced by the support or criticism of any political party locally. The Unions will do what they think is necessary to fight for their members' jobs.

However, I take the point made by the Chief Minister regarding the Partido Socialista de Gibraltar. As a politician, if I found the policies of my party supported by another party with whom there was no political affinity, I would have to re-examine those policies. I put it to him, therefore, that since Mr J E Triay and his so-called Party for the Autonomy of Gibraltar, were the first to criticise the selective action of GTC, his Government should immediately abandon their opposition to this and instead support the Trades Council as warmly as I do. Let me also ask him what else does he expect the Union to do other than take industrial action to desperately try and save the Dockyard at this late stage when they have been so badly let down by this House of Assembly and especially by him, the man entrusted by Gibraltar to be its political leader and be at the forefront of the closure fight?

In February 1982, we went to London with Mr Isola and presented a joint memorandum signed by GTC. What has happened since? Nothing! After our meeting in London I said that our request had been turned down and both he and Mr Isola disagreed with me. When we met the British/Gibraltar Group in Parliament, he stopped them taking action by saying we should wait till the tenders for the Dockyard were in. Then we had to wait till the consultants selected Appledore. Now we have to wait till Appledore makes its report. And he brings a budget to this

House that assumes 1000 people will be thrown out of work on 31 December this year. He cannot simply Mr Speaker, ask the Unions not to take action to block the closure, he must also say what he intends to do himself to achieve this end. As far as the GSLP is concerned, we have already stated on innumerable occasions our opposition to commercialisation. The Hon and Gallant Major Dellipiani put it across excellently, if I say so, yesterday in this House. When I heard him speaking I thought I was listening to the trade unionist Frank Dellipiani that I knew 20 years ago at Transport House. But what is the point Mr Speaker, of the issue being discussed in this House when all that is likely to happen is what took place in the last debate on the Dockyard when virtually every Member who spoke agreed with my amendment and then every Member voted against it? Let me therefore give one compelling reason why every Member should on this occasion be voting against the budget. It is the crucial element in the statement of the Financial Secretary. Yet all Members have spoken and not a single one has made a reference to it and the Financial Secretary himself today I think has highlighted it by bringing it to the forefront. The estimated balance of £8.4m in March 1984, which appears so healthy to Mr Restano, assumes that no tax will be paid by Dockyard workers for January, February and March 1984, because they will be unemployed. This is totally unacceptable to me and my party. The loss of revenue of £350,000 is what makes necessary the raising of car licences, petrol and water which offset by reductions in import duties give a net yield of £500,000 against this loss of income tax. And this policy was carried yesterday by 14 votes against one. The estimates of expenditure reflect cuts in essential overtime which mean that our streets are unswept at weekends and our incinerator choked with refuse, because of lack of money which again has been emphasised by the Chief Minister today. Yet, I am assured that the extra policemen to which he refers, the 14 new police recruits in employment and there is no provision in the Estimates for that and this House has not yet accepted that they are necessary. This is an additional reason, Mr Speaker, why I will also vote against the Bill. This House is not giving leadership. This House, Mr Speaker, like Nero, is fiddling whilst Gibraltar burns. The Chief Minister must not carry on with this budget. The Finance Bill passed yesterday by 14 votes in favour and mine against, to pay for the expenditure we are to approve today, is no answer to the crisis. If this is the best the House of Assembly can do, then the Chief Minister must call an immediate General Election. The GSLP will ask the people for a mandate to implement a different radical and necessary programme to salvage Gibraltar from the wreckage before it is too late.

HON MAJOR R J PELIZA:

Mr Speaker, my Hon Friend the Hon Mr Bossano referred to what I stated at the last meeting last year, that I had criticised the words used "cautious", "prudence" and "consolidation" theme of the budget of which I referred in fact earlier and I still stand by what I said. The same way that he stands today about what he said last year I, in fact, find

that it is confirmed because if as I said today the attitude adopted today should be the same as I suggested last year perhaps we would not find ourselves in the predicament, at least not in such a difficult situation as obviously we are in today and that is we should have shown boldness, initiative and enterprise last year particularly as I mentioned in the budget at the time because I think he was slightly out of reference, what he said I was referring mainly to tourism which is our second pillar of industry and which I think the Government failed dismally in doing anything drastic and effective last year and I say again, I repeat it again, the same attitude will not benefit at all in that obviously the greater income we bring from outside the healthier our economy will be. Therefore on that issue I think I differ very strongly with Mr Bossano and equally with the Government.

MR SPEAKER:

I understand that the Hon and Learned Mr Isola has had an urgent call he did make a signal that he will be straight back, I think it is only right that we should give him an opportunity to speak.

HON P J ISOLA:

Mr Speaker, I am grateful to the Hon Mr Bossano for making a contribution in this debate at least, if for no other reason, to give me personally the opportunity to express my own warm appreciation of the Hon Financial and Development Secretary for his great service to this House whilst he has been holding that post. I almost spoke before the Hon Mr Bossano yesterday because I did want to get in my own appreciation of what he had done for the House and this is about the only part of the Hon Member's speech with which I find myself in complete agreement. I got worried with the Hon Mr Bossano when he started saying we were also losing a shadow Financial and Development Secretary. Mr Speaker, I had vision of a resignation from the House and I was quickly totting up in my own mind should one contest the bye-election or not, will the Chief Minister do another one of these things that he did last year in 1979 towards the end and call a general election and what do we do about it and so forth but then I discovered to my relief that it was to be purely a political speech and not, unfortunately, his usual state of the economy speech which is always very interesting to hear, Mr Speaker, although today I thought for the first time we were to be given the political plan if not the economic plan. The Hon Member has always told us about his economic plan for Gibraltar but has never revealed it, today he said the Chief Minister should call a general election, I would not disagree with that, that the Chief Minister should call a general election and then his party would put up a radical programme but he did not give us any details about it or the general thrust of that programme. I would like to say that as far as we on this side of the House are concerned, we have put our own broad view of the situation and I thought that the Hon and Learned Chief Minister in his reply yesterday would have dealt in more detail with the Party statement made on behalf of the party

by the Hon Mr Gerald Restano and not dismissed it so lightly as reading a report as if there was something wrong or something unusual in an Hon Member reading a speech when this is, as we all know, Mr Speaker, common practice on the Government benches. I think that the Hon Mr Bossano has put his finger today on one of the aspects of the budget and I am grateful to him for reminding the House of what we have said in the past on budgets which has been, Mr Speaker, that the severe taxation measures that were carried out by the Government in 1979/80 and 1980/81 have produced what we have called almost artificial healthy position, huge consolidated fund surpluses which have given a wrong impression of the state of the economy. Can I remind the Hon and Learned Chief Minister of what I said in the budget of 1981 in this respect and it is relevant to the remarks he has made about the Improvement and Development Fund and being able to put in £15m from this Consolidated Fund balance into the Improvement and Development Fund and the thrust of what I wish to say is that the reason or possibly the reason why he has to do that is because he has produced such healthy Consolidated Fund balances that the British Government has held back in granting development aid. I said in the budget in 1981, Mr Speaker, at page 157, "Mr Speaker, in my budgetary speech last year I also did say, when I predicted a surplus of £8m/£9m, I did say that that might well put the Government in an uncomfortable position when going to London for development aid. In fact, that has been echoed by my Hon and Learned Friend Mr Haynes in the close of his contribution on the budget. I think that is a factor that the Government ought to consider because if the Gibraltar Government situation is healthy, or appears to be healthy to somebody who looks at the estimates of revenue and expenditure, then it can be argued that the pledge of "support and sustain" has not got to be applied as strongly as if Gibraltar was in the 1979 position. I am not saying that the British Government is not going to sustain and support Gibraltar". And in 1982, that is in last year's budget, Mr Speaker, at page 314 I referred to the over taxation, I said: "The economy was nevertheless, through over-taxation, as we say here, was built up to the extent that the Financial and Development Secretary cannot hide his satisfaction at the surplus balance Gibraltar has and at the surplus we will have next year and I am not surprised although I do not agree in those circumstances that the British Government to a certain extent, especially with the way they are thinking not just with us but with their own people in England, say that in Gibraltar we are very well off". I do not agree with what the British Government say or do in these circumstances but I do say that unfortunately the fears that I expressed in 1981 have proved justified in that the British Government as we all know has dragged its feet quite considerably on the question of development aid as we know in contemporary times and we do know that the Gibraltar Government made its presentation, I think we were told in February, 1981, for the 1981/86 Development Programme and that really there was no movement from the British Government towards granting any development aid in Gibraltar until after the announcement of the Dockyard closure in November,

1981, and after a lot of pressure from Gibraltar a tranche of £4m was announced by the Chief Minister in the House. It is too late, Mr Speaker, it is too late to do anything about this obviously but I would ask the Hon and Learned Chief Minister and Hon Members on that side of the House to listen more attentively to what we say in these matters because we have been proved right so often on a lot of issues. So we have got £1½m to put into the Improvement and Development Fund but we have not got any money from the British Government and, Mr Speaker, we are heavily over-taxed in Gibraltar and the Government cannot or say they will not increase income tax allowances because they would rather use that money to fund housing and so forth which is a point but that is the position that we find ourselves and that, I am sure Hon Members will agree, is an unsatisfactory position. The Hon Mr Bossano has said that we are wrong in saying that on the face of it the position is healthy, on the fact of the estimates. He has not said why, he has just said it and I suppose as the shadow Financial and Development Secretary we should accept everything he says but we do not. The position does appear to be healthy on the face of it. We have serious problems ahead obviously but on the face of it, on the surplus that the Government expect to have at 31st March, 1984, of over £8m that is a reasonably healthy position. Unfortunately, there are two huge imponderables which are going to cause real problems for us in Gibraltar. One is the Dockyard closure and the other is the effect of the partial opening of the frontier. Mr Speaker, the Hon Mr Bossano did say how successful the blacking action had been and how well it had been reported on in the British press. Well, I must say that he has got to take some credit for that because from reading the papers I notice he has been working overtime with representatives of the British press to ensure that the picture put over in Britain is not too unfavourable and he succeeded, I think, if I may say so, his political neck was on the block and if he had not succeeded I think he would have found himself in serious trouble and I am glad he was successful on that. But we on this side of the House and to a certain extent the Government side, we do not agree on a policy of suicide and this to us seems to be the route that the Hon Mr Bossano is leading Gibraltar on and when he says that last year even the Chief Minister said I had spent more time on his speech than on Government speeches, he forgets to mention the reason for this and the main reason was, if I remember rightly, I have not checked on the debate, that he was almost advocating, Mr Speaker, civil disturbance, resistance to the British Government and eventually 'Brits get out' and that sort of line that he was taking in my view required serious answer and that is why I spent a lot of time on him. This year I do not have to do that in the first place he said very little and in the second place his speech is really asking for a general election in Gibraltar and that of course is not a matter on which we can do anything ourselves on this side of the House. No doubt the Hon and Learned Chief Minister when replying will give us the date of the general election. I say that, Mr Speaker, because after all we have always noticed great liaison on a great number of issues between the Government

benches and the Hon Mr Bossano and it may be that we shall hear that. As far as the position of the Gibraltar Trades Council is concerned, Mr Speaker, I think I ought to perhaps say what the position of my party is. We support entirely Trade Unions in Gibraltar in fighting for the aspirations of their members, this is elementary in a democracy and we also hope that they will be successful in achieving the aims of keeping the Dockyard open by legitimate means. We do not believe, Mr Speaker, that the Trade Unions can do it on their own, it is just not possible against the framework of the situation in Britain today. They require the fullest political support of the political parties in Gibraltar and to us it would give us great satisfaction if the Trades Council leadership were to take up what we have said time and time again that there is a need for the parties to get together and take action together and which we repeated, Mr Speaker, and my Hon Friend Mr Restano repeated in his speech yesterday. I have not had a single approach from the Gibraltar Trades Council leadership at any time on this matter, I do not know whether the Chief Minister has, probably he has I would imagine. I cannot escape the feeling in those circumstances, Mr Speaker, but there is some sort of political influence working on the Gibraltar Trades Council otherwise why would they object to get together with a party that has said time and time again that we want to keep the Dockyard open and I would like to say this on the Gibraltar Trades Council leadership. The press release they issued in which they attacked I think the Government party and ourselves for criticising them on the industrial action against the British fleet, they attacked me personally as leader of the party which I have no objection to but the press release that went out was a press release of the DPBG and had the full support of all my elected colleagues and my Committee. But they went for me and then they said that nobody had done anything to try and further the aims of keeping the Dockyard open and that, Mr Speaker, to the knowledge of the Hon Mr Bossano is a lie and the Trades Council leadership should be better informed of the situation. Perhaps the Hon Mr Bossano does not tell them what happens in this House because if he did they would have known that my Hon and Gallant Friend Major Peliza, a member of my party, has written I don't know how many hundreds of letters from the Prime Minister down in Britain, to Members of Parliament in England, setting out the terrible effects for Gibraltar of a Dockyard closure and expressing very serious doubts which he expressed in the debate yesterday, about the viability of a commercial Dockyard and he has spent, Mr Speaker, I hope not too much money but I think he has with first class post at 19p, and he has taken the trouble to attend the House of Commons, to meet Members and to act where it matters, whatever the Trades Council may think. Where it matters in the last resort, Mr Speaker, is in the Houses of Parliament, that is where it matters in the last resort and I am sorry and I am sad that on a matter that is so vital to Gibraltar I am sad to see the elected or is it elected, I do not know, the leadership of the Gibraltar Trades Council trying to play in effect party politics with the political parties in Gibraltar. It is sad to see that, Mr Speaker, and if we have to have it, well, we will have it, we shall go on with our struggle and we have indeed suggested that the time has come to make more concerted

moves in Parliament. The Hon Mr Bossano said it in his speech and we have suggested an all-party approach and I am sad and sorry to see that the Hon Mr Bossano in his comparatively short intervention did not agree along that line and continues and prefers to go along a road, Mr Speaker, that might succeed in the end or might bring utter disaster to Gibraltar because with our experience and with the experience of the GFC leadership and of their affiliated unions or their principals in England, they are well aware as we are unfortunately, of the problems that result from confrontations with the present British Government and it is a fact of life, Mr Speaker, which we in Gibraltar must recognise. The people in England and the most clear example, Mr Speaker, is that militant Trade Union leader Arthur Scargill of the National Union of Mine Workers, who has two or three times tried to confront the British Government and, by Jove, they do have the muscle, Mr Speaker, and he has not had support on it and I just cannot see, Mr Speaker, I wish I could see, I just cannot see how a role of industrial action in Gibraltar by 1,500 or 2,000 men can achieve what a much greater number of Trade Unions in England have failed to achieve, and that stop a guy from closing, because that is the issue, stop the Government from closing a Dockyard. Perhaps he will be successful. I notice, Mr Speaker, in The Times edition of Monday that the "Gibraltar Unions" - the headlines - "pin their hopes on Heseltine's letter". Well, I have not had the benefit of reading that letter but it was the Hon Mr Bossano who spoke to Mr Richard Wigg and there seems to be some hope in that letter of Mr Heseltine. Well, if that is so I am delighted, Mr Speaker, and if the Gibraltar Trades Council through their letter-writing to Mr Heseltine can achieve the worthy objective that the Dockyard should remain open we would be the first to congratulate them and support them but, Mr Speaker, I do not know whether that is so or it is not but I can only say what I said last year on behalf of my party, that we do not think that a road of desperation, a road of anti-British Government because it is Mrs Thatcher or whoever, a road to bring Gibraltar to a standstill where all the Ministry of Defence is concerned, we do not believe in that road, Mr Speaker, and we must be frank about it and say so. We think that the struggle is pretty desperate but we think also that the only way we can have success in this struggle at the end of the day is by having the support of the British Parliament and people and I am glad to see the Hon Mr Bossano place so much importance on the fact that the British press has not reacted too badly because that implies, Mr Speaker, recognition by the Hon Mr Bossano of the need to keep the British press supporting Gibraltar and of the need to keep Parliamentarians supporting Gibraltar and I agree with that entirely but the actions that the Trade Council take, if they wish to take any, must be judged against the benefit to Gibraltar, the benefit to the people of Gibraltar of such actions in achieving the objective which it intends. I have spent some time on this, Mr Speaker, because I know we will be told that we are anti-Union straightaway, that is the usual ploy of those who do not support my party, but we are not and I want to stress that, I want to stress that in what I am saying I am perfectly sincere and honest. We do wish them success but we do feel that other brains should be brought into the picture,

that political divisions should disappear on something that is so important and we are prepared, Mr Speaker, to play our full part in this process and we have said it and we have made offers on it. If they are not accepted, well, a general election will tell whether we were right or we were wrong in making these offers. Whilst on the Dockyard, Mr Speaker, we heard the Hon and Gallant Major Peliza tell us yesterday how he feels and how difficult commercialisation in his view is going to be. We know the opinion of the Hon Mr Bossano and we are getting through from the Government benches extreme pessimism on the matter as well. I agree with the Hon and Learned Chief Minister, whatever our own views may be on the matter, I agree that an alternative has to be looked at, I agree that you cannot expect the British Government to say: "Right, you will have a Dockyard in Gibraltar going for all your life and we will just have no work for it, we cannot put any work for it and we won't give it any work and we will keep it going". I agree that if there is no longer any need for Dockyard capacity in Gibraltar it is not unreasonable to ask us to look at alternatives, this I think is basic, but it must be against the background, Mr Speaker, that the Naval Dockyard is really the economic base of Gibraltar and therefore any alternative that is produced must substitute it. We have all expressed very serious doubts on both sides of the House. Of course, I don't know how the project study is being carried on or what is happening but obviously I am very concerned to hear a Government Minister say, as the Hon Major Dellipiani said, that he was satisfied that it was not a viable alternative, commercialisation, just say it like that, I don't know what information he has, I don't know whether he has got more information than we have, but I also heard the Financial and Development Secretary express grave doubts on the matter as well. Of course, when the project study report comes you could find the Gibraltar Government holding one view and the British Government holding another view and that is when we are going to be in trouble, Mr Speaker, and that is going to be the problem, I think it is going to be a big problem. But one thing I do say, that these words of warning coming from the Government benches, I will for one moment much as I value his opinion discard my Hon and Gallant Major for one moment, but these views coming from the Government benches to me emphasise the need to start the process of informing our friends in the British/Gibraltar Group in Parliament as soon as possible. To me it emphasises the need for that and to get as much factual information to them of the position as to show them that the Opposition to the Naval closure in Gibraltar does not arise from anti-Thatcherism, if I may call it that, but it arises from the genuine fears of the people of Gibraltar for their economic wellbeing in the future and I think, and I would ask the Hon and Learned Chief Minister to think along these lines and I would also ask the Hon Mr Bossano because he is a very important factor in this matter, because although he tells us that his political party is one thing and his trade unionism is another, it is almost always impossible to distinguish and obviously he has great weight in these matters because when the Trades Council was invited to television it was the Hon Mr Bossano who went, it wasn't the

other people there, I never see anybody else except in meetings, it is always the Hon Mr Bossano. We have him in the House as the leader of the Gibraltar Socialist Labour Party and I think that he has to be prepared to take some responsibility in this and not just go along his own road and expect everybody to agree with him because I think the matter is coming to a crunch and I think there is need to have in London elected leaders of Gibraltar who are respected in Parliament, who are known by Members of Parliament and who carry a lot of weight in Parliament in these matters. It is possible for the GLP/AACR and the DPBG to go on a delegation to Parliament on our own, it is possible, and go on with it, but it is obviously much more desirable that it should be all the political parties engaging in this campaign and I would ask the Hon Mr Bossano to reflect on these matters and to consider whether the interests of the people he represents both in his political party and in the Trade Union Movement would not best be served by seeking an all-party approach on this very, very difficult issue that faces Gibraltar today. Mr Speaker, the other point I wished to make was of course the question of the partial opening of the frontier. I agree with my Hon and Learned Friend Mr Haynes that in economic terms we feel that a full opening of the frontier would be of great benefit to Gibraltar and we feel, Mr Speaker, that probably more in the shorter term than in the longer term although I know there is difference of opinion on that and we do know, Mr Speaker, that the partial opening of the frontier is in economic terms an entirely different matter, it is not good and it is going to lead us into serious problems within a year if something is not done about it. Quite what you do, Mr Speaker, to either have the frontier closed or fully opened, quite what you do I am not sure myself, I'll be perfectly frank. I do think that the options open to the Government of positive measures are limited but we do feel strongly that the Government should take advantage of the current feeling in Gibraltar, I feel, mainly brought about by the visit of the British Fleet to Gibraltar which we all welcomed, every single person in Gibraltar welcomed, has brought about I think, I believe, more pride to the Gibraltarians, I think people think lots of things now and I think this is the time, Mr Speaker, to take measures but positive measures, Mr Speaker. One of them we said already, and that is the advertising of Spanish products, of Spanish car park space in Malaga and so forth, of Gibraltar being used, Mr Speaker, really to further the interests of investment in Spain. It doesn't matter whether that interest is promoted by a Gibraltar firm or by any other firm, it doesn't matter one bit, Mr Speaker. I have looked at the estimates of expenditure on the GEC vote and I think the cut is marginal, it is £584,000 plus £140,000, I think from estimates, which makes it £720,000 as against last year, if Hon Members will bear with me, as against last year a revised estimate of £753,000 but an approved estimate of £730,000 so it is £580,000, £680,000, £720,000, Mr Speaker, just £10,000 less in the estimates and we have had that in lots of other Government departments, I mean there is no reason why GEC should be free from the cuts of expenditure that have been carried out by the Government. So, really, Mr Speaker, to our way of thinking a £10,000

benefit in a £49m budget in return for having in our homes every night, most of the nights programme how don't catch an aeroplane in Gibraltar why not hop into your car in La Linea and take it to Malaga airport and park your car there, they say that for Malaga people but it is also for Gibraltar people. Buy your things at the Continente, if you need glasses or you need specialists go to Malaga, Marbella, you are all going to Spain and so forth and principally, Mr Speaker, the way people are being asked to invest in land in Spain and in housing, that is a very big part of the programme. And how can the Government, Mr Speaker, have any credibility in its policy of appealing for restraint to people in their expenditure in Spain when a heavily subsidised Government Corporation is promoting Spain for all it is worth. And this, to me, is the problem. They say GEC should be independent, we all agree it should be independent but GEC is subject to directions from the Governor-in-Council on matters of public interest and I would say that this is a matter of great public interest, Mr Speaker, and it has to be said and I do not accept this reply, this hasty reply from the General Manager of GEC calculated to reach me just before I got up. I cannot accept that GEC should be used for the benefit of people in Spain. If they want to advertise Spanish products like Rolls Royce, well, there is Spanish National television, pay a little more. If there is a need, and this would have to be shown, Mr Speaker, for additional subsidy as a result of carrying out that policy, we would go along with that but the need has to be established, Mr Speaker, as well and that of course we leave to our Hon Friend whom we have praised so much, the Financial and Development Secretary. But I think, Mr Speaker, it is important and that is why I have brought it in the context of positive measures, that was one. Other positive measures that we are having consultation about. We have throughout, Mr Speaker, said since all this started that there was a need to make Gibraltar more competitive, there was a need to reduce duties and I notice that the Government have paid some attention to that but certainly not as much as we would have liked and by looking at the figures the reductions in import duties the Government is putting at risk £203,000 on all those items that they have given us but in tobacco it is £360,000, tobacco and cigarettes. Mr Speaker, I believe, although we supported it, I believe that a reduction from 16% to 12% is so marginal that I do not think there is going to be much effect but I do agree the reduction on jewellery and perfumery from 25% to 12% is significant. We would have liked to have seen more reductions, more reductions and in areas such as clothing and shoes, in areas such as cosmetics and toiletries which I believe are popular as well. I accept that that might have been a larger chunk. I think the Honourable Mr Perez said that we don't want to gamble but, Mr Speaker, when you are assessing a situation perhaps gambling is not the elegant word, the elegant word is a calculated risk and calculated risks, Mr Speaker, this Government must take. And what is the aim of that calculated risk? The aim of that calculated risk, in my view, is to take advantage of the general feeling now coming up in Gibraltar, the general feeling that we must try and do something about the situation. It is rather like the

much maligned Mrs Margaret Thatcher has been doing in England, buy British, buy British and people in England are buying British but the goods that they buy British must be competitive otherwise they don't buy British. Fair enough, we all accept that, but that is what we want to get people to start thinking about, that things are cheaper in Gibraltar, have become cheaper as a result of positive Government measures and co-operation of the trade. We are told of this computer game of £4.50 or £7.50 that has gone up to £12.00 and a lot of importance seems to have been put on that and my Honourable and Gallant Friend Major Peliza gallantly tried to explain the reasons for it, but I would like in simple terms, Mr Speaker, to think also of other reasons. I think that in a position of trade it is rather like in aviation, Mr Speaker, they charge what the market will bear. There seems to be a free enterprise principle and if in fact because of Gibraltar people spending in Spain and because of Spaniards not being allowed to take stuff back to Spain, it is found that a particular item is going out and that the margin between that item in Gibraltar and Spain is very large and they reckon commercially that they can take an increase, I will not say that it is not profiteering but I will say and I don't know of anybody who does this and I don't know who is doing it or not, but I will say this that if that may help to meet the wages bill, the rates bill, the electricity bill and the rent bill and to that extent the airlines do exactly the same thing, Mr Speaker. When you hear of all these airlines that are trying to help Gibraltar and my Honourable Friend the Minister for Tourism telling us all that Air Europe was going to do for Gibraltar. If you look at the judgement of the CAA you find that their viability study depended on the elimination of Exchange Travel as a charter operator and it also depended on them getting 100 seats for each of their aircraft from Exchange Travel, passing on the risk, and then the other 30 seats charging whatever the market would bear which is what the scheduled operation is to a great extent. I don't think we should go too much on that I think we want to have the overall policy of making Gibraltar more competitive and I think in that case, in that sort of situation, Mr Speaker, and against that background, I think import duties do play rather a very important part and I think the Government should consider at an early stage making more cuts in import duties to make Gibraltar more competitive. And at the same time, Mr Speaker, I cannot impress enough upon the Government the other problem that they are faced with and that is the question of public expenditure and cutting public expenditure. It sounds a very harsh thing to say and a very harsh thing to do and nobody wants the earnings of anybody to go down if they can possibly help it. Nobody wants unemployment but it is the duty of the Government to support as much as possible the working people in a realistic and sensible way. I see the huge problems ahead, Mr Speaker, if the Dockyard closes, we all know them and we all know the pressures there will be on the Government as the largest employer outside the Ministry of Defence in Gibraltar to take on more workers, to take on more staff. Now if that is not properly managed, Mr Speaker, if the trade union leadership which is terribly important in

this situation doesn't take a very responsible and realistic attitude on the matter and doesn't cooperate fully, all that will happen is that the Government will take on additional workforce of one sort or another to try and ease the problems that are coming from the Dockyard and then find itself in a still worse position a year later. And the message has to be, Mr Speaker, cutting public expenditure, making Gibraltar more competitive and cutting public expenditure and being done in a way that harms least but has to be done. The days of bonanzas are over unless, Mr Speaker, we have another miracle, the Dockyard stays open, the frontier opens fully and we are all back to our old days. Then it doesn't matter so much but now it does, Mr Speaker, and it is going to be long process. The Honourable Minister for Public Works referred to the fact that of 500 people in his department, 500 are not doing overtime and the other 400 are. I know that it is inevitable you can't help it, but there you've got two nations within a department in the sense that somebody is earning more than others, far more, he is talking of 89 hours being worked by some people. I ask you, Mr Speaker, can anybody be productive for 89 hours? There is something wrong somewhere but I think it needs cooperation....

HON M K FEATHERSTONE:

Mr Speaker, can I just explain it is not that they work 89 hours, they get paid 89 hours. Their actual working may be 65 but as some of it is paid at time and a half and double time their pay packet shows 89 hours pay.

HON P J ISOLA:

Oh, I see, thank you. But even 69 hours, Mr Speaker, is pretty heavy going. I know that trade unionists have to defend the people in each department. If the dustmen are threatened he can go to the Government and say: "Alright, you are quite right", and tell the dustmen; "Look, Johnny Smith in that department is only getting so much". I know that that is not the normal way trade unions work, obviously, they are paid to protect the interests of their members. But I think that in the present situation of Gibraltar the trade union movement also have to take a broad view on the situation and has to understand the fact and the problems that we are creating in Gibraltar for ourselves. We know the differential between the public sector and the private sector. There is a differential in industrial earnings of 20% and in non-industrial earnings it is 30% and I ask, is that fair? I personally think it isn't. Can the private sector be forced to have parity with the public sector? I think the trade unions must realise that they can't otherwise they would have had industrial action in the private sector. The reality of the matter is that they can't so are we going to go for a policy that keeps on widening these differentials? My Honourable Friend Mr Restano in his contribution showed the wide difference in earnings within Government departments by non-industrials. My Honourable Friend Mr Bosseno had mentioned the Police, they are one, Customs, Fire Services, and other departments earning £2000 and £3000 a year less average earnings. I don't

know how that occurs, Mr Speaker, what I do know is that there is a need if we are going to keep the economy on a level there is a need, Mr Speaker, for cost consciousness, productivity and streamlining within the Government service and I can see that the unions have an important part to play in this role and it has to be a constructive role. Let us suppose that the Ministry of Defence has to be brought to a halt for one reason or another, that is a matter of trade union policy but please do not bring the Gibraltar Government to a halt as well. Let us be constructive, I am not saying that they are, what I am talking now is of a constructive approach to Government expenditure both by the Government and by the unions. Mr Speaker, in the frontier situation of making Gibraltar more competitive I would like to remind the Government that they themselves have a part to play in the cost of living. Rates in the private sector have gone up 20%, that puts costs up. Water is going up 10% and there is another thing 20% rents, but that is not due until next year. But rates and water 20% up on rates, Mr Speaker, that is what it is working out in private residential accommodation, in fact, it is just under 20%. This affects costs. If wages, Mr Speaker, are going up around 5% and last year it was around 7%, Government must surely ensure that its own increases in expenditure that it charges the public whether it is through electricity, through water, through telephones, through any other services are kept within that same sort of limits because you must look at the expenditure and I must mention, as my Hon Friend has already mentioned and other friends have mentioned in this side of the House, the Electricity Undertaking problem. Gibraltar cannot afford the luxury of the Generating Station and what it is costing us. I notice in the Estimates of Expenditure, Mr Speaker, that there is a drop of £300,000 or £200,000 on that vote but if one examines it the drop is only because fuel is expected to be £500,000, I am talking in very broad terms, £500,000 less this year. This is what brings the estimates down but everything else is up in that Department. Mr Speaker, we are very worried and I think that the Government should come out a bit more and give us more information, I think the public should have more information. We were going to have one engine at Waterport, right, and that was 5 megawatts what was required, then there was an option in the contract for a second one and the Government take that option. In the short space, Mr Speaker, of eight or nine months, Government have put in a development request for a third engine. We are talking of a lot of millions of pounds here. We ask, what is the real reason for this, is it really the perfectly good idea which we do not object to, of concentrating power generation in one place? That was a good idea, Mr Speaker, two years ago and three years ago and four years ago. Why has it only become a good idea at the end of 1982 or in the middle of 1982? These are very big projects and we have got this running expenditure of trying to sort out we do not know what, management industrial relations in that Generating Station, trying to sort it out we have an expenditure known to us of £18,000 a week. That is over £900,000 a year on one Government department, Mr Speaker. Isn't there a case for management and union to become jointly more responsible as far as the people of

Gibraltar are concerned? I don't forget when we last intervened in the Steering Committee I don't forget the very unusual response of a Steering Committee where you have got the head of the Electricity Department and all those Civil Servants coming out with a press release against the DPBG. There was a precedent, I think, with the Civil Service Association and the Chamber of Commerce, the very unusual thing of Management and Unions getting together to attack the leading party in opposition but they cannot get together to solve the problems of the Generating Station and the public of Gibraltar have to pay and pay and pay and have power cuts and everything else under the sun. If there is not going to be cost consciousness on the part of the Government, if there is not going to be a real attempt to grapple with expenditure, if Government doesn't give a real lead then, Mr Speaker, how can you expect the rest of the population to follow. How can they expect traders to cut their profits if Government doesn't cut its expenditure and increases and, Mr Speaker, in that connection the water subsidy to hotels comes into play. I do not accept what the Minister for Tourism has said that the problem of bringing tourism to Gibraltar is air seats, I don't accept that. I have been in this game of air communications far too long to accept that. I believe that the reason why tourism in Gibraltar and I don't want to talk for my Honourable and Gallant Friend, there are two main reasons in my view. One is the product in Gibraltar and the other, I think, is what the tour operator charges for a holiday. I think that ought to be looked into. Not so much air fee, what the tour operator charges for a holiday. The Government can do nothing about it and I don't think they should but I think the elements are not necessarily the air fare and the hotel. From what I hear, I may be wrong, the hotel and the element in the air fare aren't too bad. Mr Speaker, as far as the Air Europe application is concerned I have read with interest the judgement of the Civil Aviation Authority and I must say without revealing any secrets that the doubts that I expressed about that application have in fact been, I don't like it but they have been vindicated by the Civil Aviation Authority. It seems that the main thrust, what they were saying, Mr Speaker, to Gibraltar is: "What you need is a balanced service between scheduled operations and charter operations because what you need is the package market, the cheaper air fares". I think it became quite clear that in their view and in the view of Air Europe that the Air Europe viability depended on the elimination of Exchange Travel, that is virtually what was going to happen. So we are going to have all scheduled operators, no charter operations for Gibraltar and then is when the fares go up. The only reason the fares came down in Gibraltar is because there were charter operations and I have always maintained that we have to keep a balance between charter and scheduled, that ensures competition, not necessarily between scheduled and scheduled and the Aviation Authority again on the evidence of Air Europe which said that if they didn't get the business from Exchange Travel or the charter operations continued as at present in Gibraltar, it would be a disaster for the three scheduled airlines incurring massive losses and what happens in that situation, Mr Speaker, is very simple, one drops out or two drop out

or three drop out and where there is less than they get you. It is a difficult problem. I have great sympathy with Air Europe, I have great sympathy with everybody who promotes getting more seats to Gibraltar but I am afraid, Mr Speaker, the Government has to project a sensible approach in this. When one talks of load factors, of break even, for those scheduled airlines to break even and this, incidentally, was common ground between Air Europe, British Airways and GB Airways, you do not often get everybody agreeing. The break even load factor is 65% full, that is to break even load factor and that is for paying passengers and here, Mr Speaker, may I just put one aside. Could I appeal to the Minister for Tourism to agree with the Airlines how you assess the number of people on a plane because unless you do that the Government will always be in argument with the airlines because they assess it on the fare paying passengers, the Government assesses it, the Tourist Office assesses it on the number of people who travel, it does not take account of the passengers travelling free of charge but it is important to have that figure. Even if you do not accept it it is important to have the fare paying and the non-paying passengers even though the Government may pay when you put in non-fare paying you are leaving out fare paying passengers, I accept that argument, but one must have it.

HON H J ZAMMITT:

Mr Speaker, I agree with the Hon and Learned Leader of the Opposition but what the Hon and Learned Leader must accept is the fact that our statistics are worked on people that arrive in Gibraltar off an aircraft excluding, of course, the crew. The fact that GB, BA or Exchange Travel want to give away thirty tickets, ten tickets, two tickets, or whatever tickets, really is not the concern of the Gibraltar Tourist Office because if that were the case then we could easily find, and I doubt it, hypothetically that 50% of the plane which is preventing other people from coming is being used by either staff that have as we all know certain perks within the airline, or by journalists or other friends of airlines and that would very badly affect the tourist trade if the plane were to come full up with non-paying passengers. But I take the point of view, it is a very difficult one and we cannot be asking everybody coming off the plane: "Did you pay? Were you invited? or "What did you pay?". That is the problem which was reflected in the argument at the CAA, the ambiguity between our statistics which incidentally, I should point out, are not Tourist Office statistics but they are official Government statistics obtained by the Statistician's Department.

HON P J ISOLA:

I am grateful to the Minister and I appreciate the point he is making. The only thing is that the Civil Aviation Authority does take account of what the fare paying passengers and.....

MR SPEAKER:

We are getting a bit too involved.

HON P J ISOLA:

If I may just finish it, before accepting increases does look at who has paid and who does not and I think it would be useful to try and have that information for the Government. Mr Speaker, as far as load factors are concerned, unfortunately because of the market to Gibraltar an airline will not be making money unless it has got an 80% load factor, reasonable money, I would have thought, but anyway that is neither here nor there. The reason I have mentioned this, Mr Speaker, is that if we should not hide from the reality of the situation that if we are to get people coming to Gibraltar, a lot of importance has to be attached to the product and that is Gibraltar and we welcome very much the provision for a Military Museum and the provisions for the historical side of Gibraltar which we think will be very helpful. Mr Speaker, as far as hotels are concerned I think it is common ground that they are all doing not too well and I think the question of water is important and we believe, on this side of the House, that the cost of water to the hotels should be at the same rate as the secondary rate to consumers of 40p, the secondary rate that we are going to now, and that if Government wants prompt payment there should be a reduction on that. The reason we say that, Mr Speaker, is because it is unfortunately impossible to tell a tourist staying in an hotel in Gibraltar: "You can only have one bath a day", because then nobody will come to Gibraltar and I think from what I hear and from what I see, that there is a need to help the tourist industry but the product, the tourist industry, and I won't say anything more about that, Mr Speaker, as my Hon and Gallant Friend has a lot to say on that matter: To sum up, Mr Speaker, because I would have regaled you with a much longer address yesterday if my Hon Friend Mr Bossano had preceded me, I would have gone through everything that has been said on this side of the House and highlighted a lot of other things but I think it would not be playing cricket if I did that having regard to the fact that I did not take my time. Our general comment therefore on the budget, Mr Speaker, is that we feel that the Government has not gone far enough, has fallen between two stools, has tried to be too prudent on one side, has not taken the calculated risks, if I may use those words, that might have been taken at this stage having regard to the Consolidated Fund balance that there will be. But having said all that, Mr Speaker, we on this side of the House are very aware of the very serious problems facing Gibraltar and one of the reasons we have voted for the Finance Bill and we will vote for this Bill is, I think, the need there is at this time to try and show the people of Gibraltar that we are, within the reasonable limits of political differences and so forth, that we are trying to pull together to get Gibraltar over the crisis that we are facing and we feel that if we do pull together and if the British

Government, and they are crucial in this, and the British Government stand by their pledges to Gibraltar, we feel that we can do it but it is going to be a hard struggle. Thank you, Mr Speaker.

MR SPEAKER:

If there are no other contributors I will call on the Hon and Learned Chief Minister to exercise his right to reply.

HON CHIEF MINISTER:

Mr Speaker, I am sorry that the audience, or part of the audience that the Hon Mr Bossano gathered here to hear his wise words are not here to hear me say how disappointed I have been at his performance today and I will deal with part of what he said in the first place. I say disappointed because normally he delivers a reasonably balanced speech, whether you agree with him or not, and makes some interesting remarks on the estimates. Indeed, because of the squabble yesterday about who was to speak last and he did not speak, I have seen him next door sitting full of reports and papers, writing and studying whilst listening to everybody and in fact I thought we might have been here now still listening to his normal examination of the estimates. Instead of that he has thought fit to come and make a political diatribe and speech, accuse everybody and whether he is outside or not he is certainly not available here to hear one's reply. On the political issue I will leave it at that because that is a matter which is not under debate now but I will say a few things that seemed to be relevant to the matter. As the Leader of the Opposition has rightly said, he did express satisfaction at the fact that the blacking action had drawn the attention of the British press like nothing else had done. That of course means that he is concerned about what the British press may say and he felt that it had had a favourable result. Well, that also is questionable to some extent. It did get publicity and there is a theory that all publicity is good whether the publicity is adverse or in favour. On the other hand, there is a more sober approach to the matter that publicity to be good should be good and that is to say that it should be in favour of the subject mentioned but the Hon Mr Bossano mentioned the coverage that the press had had and he did not refer to the fact that the Telegraph and, indeed, The Times, I have the Telegraph cutting which did not beneficially refer to the action because in the Daily Telegraph of the 16th April, Tim Brown, the correspondent in Madrid who was in Gibraltar, stated under a heading called 'Gibraltar blacking of ships ends' - "the industrial action ended with a note of apology sent to the 3,000 officers and ratings aboard the warships from Gibraltar's Trades Council which ordered the action that caused intense embarrassment and anger in the colony's Government. Mr Joe Bossano, head of the Gibraltar Socialist Labour Party and Branch Officer of the Transport and General Workers Union, issued a statement and requested it should be sent to all ships". There was a slight mixture of the position of

Mr Bossano in that the statement in fact was by the Gibraltar Trades Council and not by Mr Bossano himself but it seems to me that if the matter has been highlighted to some extent in the press, as he claims, it has not been highlighted entirely in a favourable light because it draws attention to the apology it is interpreted as an apology by the Trades Council for the inconvenience caused. Well, there it is for what it is worth but, as I say, it was very convenient to dispose of the whole of the Budget by taking a negative attitude and by not dealing with the Budget itself as we normally are favoured with as a self-appointed Shadow Financial and Development Secretary. Perhaps if he applies for the job when my Hon Friend leaves we might consider him if he wanted to join the ranks of the civil service but then, of course, he would not be able to carry out his politics, he would have to be impartial, something which I do not think is in his nature. Dealing with the longer intervention of the Leader of the Opposition, I would like to deal with one or two points. I do not think, with respect, that when I referred to the report I was in any way trying to deprecate or under-estimate the contribution but it is published as DPBG party statement, Budget 1983, April 18th, and I think it is fair to say and I made no objection to the fact that it was read after all, these are important matters, this is a considered view and I made no objection but this, I think, is a report. It did not say budget speech of the deputy leader or what have you, it just said DPBG Party statement. I think it is fair to call it a report and I did not deal with that in detail and I gave the reasons for it because it is a cumulative report on what has been said many years before and if I were to take the complete line that Mr Bossano has taken this year to say: "I say nothing because if you read my Hansard of last year you have got it all there", and I just said the same. I did a little more than that, I went on to deal with the new aspect of the matter in the report and I answered them as best I could in respect of the new matters that were raised there. The Leader of the Opposition said: "I have not had a GTC approach as the Chief Minister has had". Well I think I made no apologies in this respect for having said that we do not want a row between the Government and the Trade Unions. I am approached from time to time by the Trades Council and I see them, those officers of their headquarters who come to Gibraltar, there were two recently, one from the CPISA and the other one from the IPCS who come to consider the matter. They normally ask to see me and I devote as much time as is necessary to see them, to explain the Government position, to listen to their point of view and to keep them informed of what the Government is doing so that in that respect in this question of the Dockyard there has been close consultation. I called them all when the study was started and I asked them that they should withhold judgement on the question of the commercialisation. When I mean judgement I do not mean interim judgement, we all make interim judgements not final judgement on whether they would or would not consider the matter favourably until the report was available and amongst those whom I saw are members of the Trades Council and the reaction was in every way

reasonable in the sense that they said they could hardly say no to something they did not know. They could hardly say no without looking at it and I think that is the attitude and for that reason despite the fact that whether one agrees with it or not they do what they think is right in defence of their rights, of the union, whether their tactics are the ones that one would like or one would not like, that is a matter of opinion, we live in a free society and the Trade Unions are entitled to do what they think best. I did make a mild appeal in my original statement yesterday or the day before about the fact that in our view, taking industrial action before judgement is delivered on the viability of the Dockyard or not is not productive but that is our view and we have to explain it. If they do it, it is their privilege to do it. What we cannot do is tell them; "Don't do this and don't do that", because I think the reaction is worse, the reaction is: "Well, we are our own masters, we do what we like and we have to do it", That is why perhaps the approach to the Trade Union Movement, naturally, the political philosophy that I think divides mainly the main opposition and the Government is reflected in that, in that we do not believe that you can do more than persuade unions to do things rather than tell them that they are acting against the national interest other than when it is absolutely necessary if that is something that is going to produce results. That is an answer to the question by the Leader of the Opposition about an approach. The approach is always there and in fact it is not always a one-way approach it is sometimes, as in the case of the original proposals when we called the Trades Council and I have no quarrel with the manner in which they listen to matters when the Government puts matters to them. Whether they take any notice of them or not is a matter for them but I would like to say that the relations are not unfriendly, they are friendly relations in cases where sometimes there may be conflict, I think that is certainly up to the Press Release on the reaction to which the Leader of the Opposition has referred, I think the Trades Council has never put any blame on the Gibraltar Government for the situation regarding the closure of the Dockyard. Despite the attacks of the Hon Member this morning we have done perhaps more than he may know, about trying to keep Dockyard open. We may not have had demonstrations, we may not have had a kind of public statement but I can assure Hon Members, generally, and Gibraltar as a whole, that our efforts to try and keep that Dockyard open have been kept going at the very highest level and let me say that they have always been listened to, whether they listen to us or not depends again on the final outcome of the matter. We have continuously maintained the view, we have not done it cosmetically for the purpose if there were a resolution here or a resolution there, it is ingrained in every report and in fact it reflects because the Financial Secretary does not deal with politics but he has to reflect the directive and I think there is a reference in his speech about the fact that the Government has always opposed the closure of the Dockyard and we precede every consideration, every approach to the consideration of the commercialisation

and so on with that premise, we can do nothing but that. I think the Hon Leader of the Opposition said that the GTC was playing party politics. As far as we are concerned except for that statement and I have replied to the allegations made in particular against me in that statement that we had done nothing for a year, I have replied to that allegation but other than that I have not received any, or rather, whether they are politically orientated one way or the other, certainly we have received no indication other than of course the natural position of the Hon Mr Bossano whose opposition to the Government and to all other politicians except himself in office is blatant and common, this is why he is sitting where he is despite the fact that occasionally he is accused by the other Members to be on this side. Sometimes I wish he were, sometimes I am happy he is not. The point made by the Leader of the Opposition about public expenditure of course is the theme of the whole of our budget this year of the nature of our cuts and let me say that in addition to the fact that we have imposed very severe cuts on proposals for expenditure by departments, we are also looking at present expenditure and we have now got ideas about taking steps for an examination internally but by people who can well gauge the extent to which departments are properly manned or over-manned if necessary. I am talking principally in the administration which I think is where most of the thrust of the Leader of the Opposition was directing his attention. Well, there came the question of the frontier and the need for the full opening, of course, but that is not in our hands and that is why yesterday I referred to the rather naive statement made by Mr Haynes about a bloody nose and so on, about getting the frontier opened with a bloody nose. Well, I do not know who is going to give the blow and who is going to have the bloody nose but so far the theme is played not here but in Madrid and therefore for the time being I think we have to live with the situation following the somewhat hysterical reaction to the Fleet's visit to Gibraltar which we all welcomed. One matter which has been raised by the Leader of the Opposition is about this question of advertising Spanish products on GBC. Let me say straight-away that GBC suffered such a cut in their proposed estimates that I have received a very long letter from the Chairman pointing out the areas in which they would have to cut the present services of GBC if they are to take the very, very substantial cut of about 20% in their estimates that we have told them that no provision is being made, that they have to suffer that cut and maybe as a result of that we shall have to suffer some re-appraisal, as is natural, in GBC.

HON A J CANEPA:

Look what happened with Crown Court this week, we only got the last episode.

HON CHIEF MINISTER:

I have no time to look at Crown Court, is it anything to do with GBC?

HON A J CANEPA:

Instead of three programmes of Crown Court we got the third one.

HON CHIEF MINISTER:

Let me say quite clearly that the first reaction and the one that worries me more is the abolition of extended winter weekend TV as soon as present commitments expire and quite a number of other reduction in services that are expected. We will have discussions about that but in that connection though I did notice that the Hon Member is prepared to support funds to substitute the amount of money that may be spent in pushing Spanish advertisements which I have already asked, I have not got it, but I have already asked what proportion it is and certainly I will let Members know.

HON P J ISOLA:

May I interrupt? It is a pity that the information could not be as quickly produced as the letter to me.

HON CHIEF MINISTER:

Well, that is a matter for them. I asked for that I think informally, precisely talking about this, either Thursday or Friday I do not remember, and I have not received it but whether they answer questions quickly or not in other matters is a matter for them and that of course brings me to the question of GBC's independence. It is all very well to say we all agree that it should be independent and then try and find fault with everything GBC does and trying to say, assuming in the remote chance of their being in office, doing something different, whether that would not be a continuous interference in the independence of GBC. With regard to the question of directions I did say in my earlier intervention at some stage that directions are not easily tampered with, in fact, we are now having some suggestion which were put by GBC and having been cleared are now going to be added which adds I think to the efficiency particularly on political broadcasts and so on though I see also that one of the

possible cuts that there may be will be in the advance recording of party political broadcasts but that would be very difficult because,

(a) there would be a free for all, and

(b) there will be no way of judging the time limit.

I am sure that that will not suffer in the way it is indicated here because of the cost of recording political broadcasts. Having regard to the rush there is for political broadcasts I do not think that that would be very much. There is one area in the GBC proposals in which we may be able to help and that is instead of paying the subsidy by the month, advancing some element of cash within the subsidy approved which gives them a little more elbow room in their dealings and making contracts on a basis that may prove more productive. Anyhow, I will pursue the matter and I hope that it is not necessary to have a change in the Directions for this purpose that would be an indication that a modus vivendi cannot be found and I have said before that I myself did not like some of the advertisements, or rather the extent of the advertisement in proportion to the whole but I am told that the advertisement is something like 7% of the total so it cannot be very much, we have to look at that.

HON P J ISOLA:

Does that include radio and television because it just cannot be 7% of the total advertising, that is just not possible, 70% perhaps we would accept but not 7%.

HON CHIEF MINISTER:

70%?

HON P J ISOLA

70% of the total advertising at night, yes. I am not so sure about the radio, if it is the total that is another matter but on television it cannot be 7%.

HON CHIEF MINISTER:

Is there nothing in that letter that the Hon Member received about that at all, I have not got it to hand?

HON P J ISOLA:

Yes, they say Spanish advertising amounts to about 7% of all advertising of GBC, that must include radio.

HON CHIEF MINISTER:

Well, you have got it from the Managing Director, I was just remembering because I read a copy of that letter.

HON P J ISOLA:

But we cannot accept that, we see it ourselves every night, how can it be 7%?

HON CHIEF MINISTER:

What I am saying is that I shall ask for particulars to satisfy ourselves that it is only 7% because if it is 7% then we are not dealing with a very considerable amount of money because the amount of advertisement is unfortunately not as high as should be because like in many other places there is a depression and that is reflected in the amount of money that traders have for advertisements and that is reflected in GBC so that what I was saying is that I did read somewhere that it was 7% and I am glad that that is confirmed that that is where I got it from. Anyhow, the point is taken about pursuing this matter. I understand the unpleasantness about having that and in any case insofar as choice is concerned anybody who wants advertisements from Spain can always turn to the other channel but then of course that does not produce any revenue. Anyhow, Mr Speaker, I think I have dealt with the matters that have been raised by the two speakers, generally. Unfortunately there wasn't much more that I could say about what Mr Bossano said because he has completely and utterly, as you would say, Mr Speaker, disappointed me in the brevity and fierceness of his unwarranted attack and intervention.

MR SPEAKER:

I will now call on the Hon Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think there are one or two points that I should answer that were raised in the contribution by the Hon and

Learned Leader of the Opposition. First of all, the question that as our Consolidated Fund was so high this was why HMG was holding back on development aid. Well, I know that this has been said before and I think I can assure the House most solemnly that I do not think that this is the case. They were holding back from giving us development aid because our per capita national income was high and they considered that we did not need aid and we had to fight hard to get it and subsequently it was of course linked to the Dockyard closure, how much they were going to have to pay if they were going to subsidise the commercial activity at the Dockyard. In fact, it was HMG who pushed this Government before I came on the question of raising rents and taxation as their condition for giving further aid. On the Waterport, why electricity now, why not before? Well, the money was not available, that is the reason, and I can assure the Hon and Learned Leader of the Opposition that in my thinking we ought to get out of King's Bastion as quickly as possible and release a first class development site and get on to the Waterport and the only thing that has held me back whilst I have been here has been lack of cash. On the reductions in import duty, alright, I would have liked to have slashed import duties too but one has to be prudent and in the projected financial position as I saw it then we had to move cautiously. If we find that the losses are not as much as we expected then we can move cautiously forward again but unlike the Hon and Gallant Major Peliza, I am an infantryman not a gunner and I like one foot firmly on the ground before I push the other one forward. A technical point - cosmetics are at 12% already so they are down. I do not think that if I would stay here as Financial and Development Secretary for the next ten years I should ever be able to agree with the Members on the other side on what is the right size of the Consolidated Fund. It is not healthy at £8m when one comes to think that we have arrears of £4m. Alright, we are chipping away at those to bring them down as much as possible but it is also in deficit because of the £3m being used from the Consolidated Fund to get off the ground development projects so therefore, effectively, you are well down below your £8m. Increases in water rates kept to the same percentage increase as wages, if I may use the word in no pejorative sense, it might be superficially attractive but it is not really a rational basis because there is a difference in money terms. A 5% increase in average earnings gives the average household some £5 a week extra, say, £3.50 net. If water charges go up by 5% the effect is some 5p to 7p a week. I think that those are all the technical points on which I wish to comment, 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 A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member voted against:

The Hon J Bossano

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move that the Committee Stage and Third Reading be taken during this meeting, today, if necessary.

This was agreed to.

The House recessed at 12.45 pm

The House resumed at 3.20 pm

COMMITTEE STAGE

The Hon the Financial and Development Secretary proposed that the House should resolve itself into Committee to consider the Appropriation (1983/84) Bill 1983, and the Finance Bill, 1983, clause by clause.

This was agreed to and the House went into Committee.

THE APPROPRIATION (1983/84) BILL, 1983

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

The Schedule

Head 1 Audit

Personal Emoluments was agreed to.

Other Charges

HON G T RESTANO:

Last year I did ask for breakdowns of telephone expenses in the different departments and the Audit then I was told was £160 for the year and this year I notice it is £1,600.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The figure of £160 was the rental for the telephones that they had but of course we could not on a single exchange in the Secretariat distinguish the number of calls going through but now the Audit have moved to other premises they are getting their calls monitored. The addition would be for the actual calls that they make.

HON G T RESTANO:

Do I expect then that in the Secretariat telephone vote that there will be that much of a reduction, about £1,000?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The figure would have been higher that it is if the Audit had still been there because we are now paying for local charges. I have no need to remind the Honourable Member of that.

Other Charges were agreed to.

Head 2 Customs

Personal Emoluments

HON J BOSSANO:

Mr Speaker, what I wanted to ask on Customs was the Establishment includes the people who were taken on temporarily originally...

HON A J CANEPA:

We are wondering on this side of the House whether having regard to the fact that he has voted against everything he has any right to ask questions?

HON J BOSSANO:

I am voting against the general principles. The 82 in the Establishment, Mr Speaker, includes I assume the extra officers that were taken for frontier duties, does it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker.

HON J BOSSANO:

In fact, this is a matter which is at the moment awaiting an answer from the Government. Is the Honourable Member aware that in fact the officers concerned have been in employment for over a year and they have not yet been officially told that they are permanent? I am telling the Honourable Member because in fact it is an area that if it is not necessary to have any dispute with the people concerned then I think they ought to be told that they are now included in the permanent establishment.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will note what the Honourable Member has said.

HON W T SCOTT:

Mr Speaker, the cost both in salaries, overtime and allowances of manning the frontier, presumably that is included under personal emoluments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes Sir.

HON W T SCOTT:

What does the frontier manning consist of as far as personal emoluments is concerned, can we have that extracted?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, Mr Speaker, I was given the figures this morning as I thought this might be asked. Customs; the salaries, overtime and other costs £217,000 plus on costs and administration charges which would include pension commitment comes to £325,500 and the uniforms about £23,000, altogether £347,600.

HON P J ISOLA:

The point we would like to raise, Mr Speaker, quite apart from the aspects of policy is in practical terms if Government were to say and some people might consider it not unreasonable for them to say that for example from 10 o'clock at night to 9 in the morning there will be no customs facilities at the frontier and give everybody due warning and so forth and that therefore anybody coming through would have to come through with nothing literally, what sort of saving would there be then? In other words the customs would not be manned and there would just be an immigration control.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I should think it would probably reduce the cost by a quarter but it is not a situation I can envisage not merely because we would not allow persons to bring in articles but it is not merely for customed goods that we are searching for, it would be for weapons or drugs, the search goes on for those and we would have to have customs officers there. Even if we said that no goods on which customs duty is liable to be paid could come through one would still have to do the checks for drugs

and for prohibited imports.

HON P J ISOLA:

Could that not be done by the police for a limited period of time?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is Customs, not a Police matter.

HON P J ISOLA:

What I am saying in practical terms is could it not be adapted to effect a saving?

HON J BOSSANO:

What the Police can do is laid down in the Police Ordinance and if it is not in the Ordinance then the policeman cannot be required to do it.

HON P J ISOLA:

But there would not be much difficulty in obtaining an amendment to the Ordinance, surely, to provide for a particular situation.

MR SPEAKER:

Let us not get involved with the viability.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The point has been raised Mr Chairman, as to how would you stop people bringing in articles that are forbidden to be brought into the territory if you have not got customs officers there, I mean, you could not. To what extent police with their present manpower would be able to stop them, I think it would cause great difficulty.

HON P J ISOLA:

We are making the point because we think that, there is no question about it, it is a waste of public funds manning the frontier fully between, say, midnight and 9 in the morning

when probably less people come through it than the people on duty. We know that this has been a subject of controversy in this House but we would have thought that there was a good case for having more economic manning of that frontier during the night.

HON G T RESTANO:

Mr Chairman, what is the degree of control that the customs exercise when yachts arrive in Gibraltar, in other words, for the searching of yachts and what they import?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yachts have to report to the Yacht Reporting Centre and there is a percentage check on yachts. An Officer of the yacht is required to disembark, present his papers and state whether he has got any dutiable goods on board and either, as with the red and green channels, the statement is accepted or in the percentage case a customs officer goes on board the yacht and checks it.

HON G T RESTANO:

Is the Government satisfied that all the yachts that come in go to this reception point and is it not aware that my understanding of it is that quite a few yachts, particularly in the summer, do not go to the reception area but go to other areas in Gibraltar?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is only yachts, using a technical term that have been to a foreign port having gone out of Gibraltar that are required to report to the Yacht Reporting Station under the present regulations, so that if the yachts go out of Gibraltar even if it goes outside Gibraltar's territorial waters, but does not touch at, say, a Spanish or Moroccan port and then comes back in, there is no requirement to report to the Reporting Station, but yachts in-coming from Spain or from Morocco there is a check from the lookout in the Port Department and there is liaison between the Customs and the lookout and I am told that on certain occasions yachts have gone straight to the Camber, for example, instead of going to the Yacht Reporting Station and they have found a Customs Officer there waiting for them.

HON G T RESTANO:

Is there any way, Mr Chairman, where one can verify or monitor whether a yacht which has left Gibraltar has in fact gone to a foreign port?

MR SPEAKER:

With due respect we are not going to go into these details on this item. Whether yachts report or not has nothing to do with the actual estimates that we are discussing.

HON G T RESTANO:

I think that part of the debate, Mr Chairman, has been the frontier situation and what measures might be imposed on people at the frontier.

MR SPEAKER:

No, with due respect, what has been said about the frontier is if there is no facility for the introduction of goods within certain hours then the vote would be reduced and to that extent I have allowed it but to go into the procedures as to how yachts report is not in any manner or form relevant to the vote. It is not in order.

HON G T RESTANO:

But can I not ask how can it be verified whether yachts that have left Gibraltar have gone into a foreign port?

MR SPEAKER:

Other than by the fact that they have reported, by visual control. It is as simple as that, you have been given the answer. Let us not argue. Will you ask the question?

HON G T RESTANO:

Can the Government verify whether a yacht that leaves Gibraltar has in fact gone to a foreign port or stayed in Gibraltar waters?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, if it goes to a foreign port it would have to have its documents stamped and you would be able to tell by an examination of the documents.

HON P J ISOLA:

The overtime and allowances represents 33 $\frac{1}{4}$ % of the salary. What are the reasons for this?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Basically, I gave the answer to the Honourable Mr Scott who was asking about the cost at the earlier part of the meeting, the double time paid on Saturdays and Sundays and holidays and the shift allowances. The answer will be found in the Hansard of the questions at the first meeting of this House. I gave a detailed breakdown as to how they were made up.

HON A T LODDO:

Mr Chairman, can I ask whether these same customs controls also apply to yachts coming into the different clubs, the Yacht Club, Calpe Rowing Club and Mediterranean Rowing Club?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, any yacht coming into Gibraltar from foreign ports must report to the Yacht Reporting Station and if it does not it is in breach of the regulations.

HON A T LODDO:

I appreciate that, Mr Chairman, that it is in breach but is there any tabs kept on these yachts that come straight to the club?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I said a little earlier that the look-out reports to the Customs Officers if they see a vessel going directly into a club or the Camber, or it doesn't matter where, and the Customs Officer have reason to suspect it has been to a foreign port, they will go round and check it.

Personal Emoluments was agreed to.

Other Charges

HON G T RESTANO:

Mr Chairman, I just have one question on subhead 2 - General and Office expenses. I notice that between the actual expenditure of 1981/82 to the revised estimate 1982/83 there was a rise of about 100% and then we have another rise of 25% from the revised estimate. What is the reason for this rather high expenditure?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There are two major items actually. One is the rental and usage of a photo-copying machine and another high amount is a new telex, installation and usage and we require that for secure links for passing information direct from Customs to other Customs authorities where we are exchanging information.

HON G T RESTANO:

How is it then that, for example, in the telephone service which is Subhead 2, there is an increase from last year of 70%? I would have expected that if the telex expenses have been increased the telephone charges would have come down.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On telephones we are going to pay for local calls now.

HON G T RESTANO:

Yes, Sir, but of all the departments in Government the one which has increased most is the Customs Department which has had an increase of 70% which I would have thought would not have been so great if part of the increases in general office expenses had been on telex which is for outside communication which presumably before was used through the telephone service.

HON G T RESTANO:

No, Mr Speaker, previously they used either Secretariat or telexed from Cable and Wireless. This is putting in the machine so that we get security direct from our own Customs Headquarters through to the Customs Headquarters at various other international organisations of all countries. I do

not know whether to ask, Mr Chairman, on the telephone one now as we are on the subject or shall I leave it for later?

MR SPEAKER:

If it is related to General and Office Expenses, yes, if not let us wait until we get to the telephone.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is another point, I have just been passed a note that the telephone increase also is due to the opening of Four Corners Station.

HON P J ISOLA:

Can I ask, why does the uniform vote drop £5,000 when the personnel has gone up? Are they sharing uniforms?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This is part of the chopping that we did on the Department.

HON W T SCOTT:

There was a substantial drop between the approved in the revised wages and now there is another sharp rise. Can we have some explanation for that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is because of Four Corners. We have had cleaners there and there is the additional amount there.

HON W T SCOTT:

That explains the rise but not the fall between the approved and the revised.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We only had them for December, we did not have them from June as we were expecting.

HON G T RESTANO:

Would it be possible to have the figures of the number of employees under this Head broken down into the basic wage, the overtime and the allowances?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes. Do you want their names as well?

HON G T RESTANO:

That is up to the Honourable Member, if he wishes to give them he can give them.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Three cleaners, two part-time cleaners and a labourer. Cleaners get £74.05 a week, the labourer gets the same, the part-time cleaner gets £45.77 a week, and there is another part-time cleaner, I am sorry to say this seems to be discrimination to the lady who only gets £37.97 a week, probably she works less hours. Six of them get efficiency bonuses of £5.50 a week and then overtime, the total cost for Saturdays for cleaning is £592.80, for Sundays £790.40, and for 9 Public Holidays it is about £109/£110.20.

HON G T RESTANO:

Can the Honourable Member let me have the global sum which is what I asked him. How many in total and how much they earn in total and how much in overtime and allowances.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There are 6, including 2 part-timers. They earn in total with their efficiency bonus £24,846.65. The grand total, including overtime, is £26,339.95, and we have said, say, £26,340.

HON G T RESTANO:

Thank you.

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MR SPEAKER:

Any other questions on Other Charges? Mr Restano, you had something on telephones?

HON G T RESTANO:

I think it has been partly answered by the Honourable Member but I would have thought that on telephone charges 70% increase for one extra station at Waterport, does he not consider this to be rather high and would he not consider that it might be, and I said this right at the beginning, a good idea for cuts in telephone charges to be made throughout Government Departments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, Mr Chairman, alright, it is my job to hold expenditure. Last year I issued quarterly warrants so that we could control their expenditure. This year we have been considering monthly warrants but I will give an undertaking that whilst I am here, and I am sure my successor will do the same, we will monitor the quarterly figures coming in from Customs to find out how it goes and how much is going into the local charges and how much into international charges. I will give that undertaking to the House.

Other Charges were agreed to.

Special Expenditure

HON W T SCOTT:

Mr Chairman, am I right in assuming that that £5,000 that appears under Special Equipment is there in case the Lisbon Agreement is implemented because I notice that a similar amount was not spent last year?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I do not think it has got anything to do with it, it is a reserved item on which I want to make quite sure that we have the funds to spend it before I decide to release it.

HON W T SCOTT:

I see, because I notice that last year we didn't spend something like £4,500.

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HON FINANCIAL AND DEVELOPMENT SECRETARY:

The question is that the Customs want to buy special equipment which will be necessary if we did have the frontier open and we have reserved this. Even if the border opens I am not quite certain we would buy it but it is there in case there is a proven need for it.

Special Expenditure was agreed to.

Head 3 - Education, Personal Emoluments

HON W T SCOTT:

Mr Chairman, I see that the temporary assistance element of the Personal Emoluments has risen very sharply, can we have an explanation on that?

MR SPEAKER:

It has gone up by £17,000.

HON W T SCOTT:

Mr Speaker, the rise is over 50% which seems quite remarkable.

Personal Emoluments was agreed to.

Other Charges

HON A T LODDO:

Subhead 2 - Cleaning and Incidental Expenses

I notice there is quite a substantial increase under this sub-head. Could I have an explanation?

HON MAJOR F J DELLIPIANI:

The explanation is that apart from the rise in cost of materials, we have far bigger schools now in service and we want to maintain it properly and we need the cleaning materials to maintain it properly.

HON A T LODDO:

Mr Chairman, but surely the size of the school is irrelevant,

it is a number of people, well, not totally irrelevant, but the number of people in the schools and I would think that a rise of this size should have to be looked into. Will the Minister agree that perhaps monitoring of cleaning materials, or a closer monitoring of cleaning materials is not called for?

HON MAJOR F J DELLIPIANI:

Mr Chairman, we are in fact keeping a close watch on cleaning materials. I do want to start on the right foot in respect of a brand new school to make sure that we have the materials and equipment to look after. In fact, I want far more money for cleaning expenses so there is already a measure of monitoring going on.

HON A T LODDO:

Mr Chairman, would the Minister not agree that perhaps in view of what he has just said he should have another look at the vote on books and equipment. I would think that the rate of inflation as it is now, fortunately only just about 5%, would warrant an increase in the vote on books and equipment. The Minister has just said that he would like to increase the amount spent on cleaning materials and equipment. Surely the equipment to the students is just as important if not more than the equipment for cleaning, considering that the Government has already intimated that some of the cleaning will be put out to tender?

HON MAJOR F J DELLIPIANI:

The problem, Sir, with books and equipment is that, as I said before, some items are not of a recurrent nature. We have been generous for the past 2 years and I want to make people aware that there is a bit of a crisis and that we should try and look after the equipment and look after our books, make people aware that we are taking measures to control the expenditure. Ideally I would like to have £½ million a year and buy a computer for every child.

HON A T LODDO:

I accept that, Mr Chairman, but I would have thought that ideally more typewriters are more important than more mops if we can make the mops last longer and not get squandered.

HON G T RESTANO:

Does not the Minister consider that £11,500 for telephone service is rather high and what control is there, if any, over the use of the telephone?

HON MAJOR F J DELLIPIANI:

Mr Chairman, the Honourable Member should realise that there are, apart from the Department of Education premises itself where I have most of my clerical staff and educational advisers, I have 15 schools. I also have the Youth and Careers Office and the Clubs distributed all over Gibraltar so it is not a question of the Education Department only I am dealing with quite a lot of people and quite a lot of buildings. There is control in the sense that no-one can make a trunk call without the authority of the Director of Education.

HON G T RESTANO:

Yes, I appreciate that but now that we are paying local calls is there no control over those?

HON MAJOR F J DELLIPIANI:

Yes, there is control over that too. I have not got the details now but there is control and I think we are trying to introduce pay phones in the buildings.

HON P J ISOLA:

May I ask the Financial and Development Secretary what may be a very stupid question? We are charging for telephone calls locally and the telephone consumer is paying for all his calls but by making charges for the individual calls within the Government Service, local calls, we are really putting an additional burden on the tax-payer. Is there any particular reason why local telephone calls in Government Departments for which the general body of taxpayers is paying should be charged because what we are doing really, is paying twice.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The money is coming back. It has been taken out of the vote and then coming into receipts so it is a book transaction, really.

HON A T LODDO:

Mr Chairman, I notice that under 7 - Initial Teacher Training, we are down considerably. Could the Minister give an explanation?

HON MAJOR F J DELLIPIANI:

Yes, Sir. Initial Teacher Training, this is the old system we had before where we selected teachers and they did not come under scholarships. The new system, because we do not need so many teachers now, unless it is of a specialised nature, they come under scholarships and the £14,000 you see under Initial Teacher Training refer to 5 students who will be finishing this year under the old system and another one who will be finishing next year under the old system. In the new system, Teacher Training comes under Scholarships.

HON A T LODDO:

Mr Chairman, on Subhead 10, wages. Could I ask how much of this element is basic and how much is overtime?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

£408,000 is basic, £7,000 is overtime and £35,000 is allowances.

HON A T LODDO:

Mr Chairman, I am sorry I keep forgetting from year to year. Allowances, what do they actually refer to as opposed to overtime?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It could be on-call allowances, telephone allowances, special allowances for types of work which persons are doing, if it is rather dirty work they might get a dirty work allowance or what have you. There is a whole list of them.

HON P J ISOLA:

On wages, and does this apply to all departments. Is the reason for the difference between the approved estimates and the revised estimates that the increases have been reflected in the revised estimates because in estimating, there is a separate Head for the wages review but when we come to this

year is the reason for the difference between the approved estimates and the revised estimates the inclusion of the pay settlement or is it additional wages?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It would be the inclusion of the pay settlement and any sort of variation. In salaries you can get people changing in a post and one has got a higher or a lower salary, you get variations going up and down.

HON P J ISOLA:

But basically the pay settlements have been incorporated into the revised estimate?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir.

HON MAJOR F J DELLIPIANI

The Hon Mr Loddo asked about full-time and part-time. The charwomen are all part-timers and we have 116 part-timers. We have 20 school attendants who are full-timers. Class room aides are industrials.

HON A T LODDO:

Mr Chairman, I am quite happy to have the information later.

HON P J ISOLA:

May I ask the Financial and Development Secretary, would it be possible to circulate rather than ask every time we get to every Department, to circulate to us, in two or three days time, the break-down of the wages element in each Department?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would be happy to do so, Mr Speaker. I have been provided by my staff with the wages and salaries bill for all employees for each department, number employed, the basic pay, the overtime, the allowances, and I have got it for industrials and I have got it for non-industrials. I would be happy to circulate that to Members. I have just got a note to tell me

that the main allowance is the efficiency bonus of £5.50 per week. I am not quite sure what you have to do to get that but after the encomiums that have been put onto the Financial Secretary during the last few days I am going to apply for it.

HON A T LODDO:

Mr Chairman, just one more question on wages. I notice that there are 116 part-time cleaners. Are these part-time cleaners actually engaged during the holiday period and are they paid, or are they off work during the holiday periods and consequently not paid?

HON MAJOR F J DELLIPIANI:

They are supposed to work during the holiday period.

HON A T LODDO:

Even though the school is closed and there are no children making use of the premises?

HON MAJOR F J DELLIPIANI:

They take their annual holidays during this period but they have to be back for two weeks or three weeks before the school opens so that they have a general clean-up of the whole school.

HON A T LODDO:

But they are not cleaning right through the holiday period.

HON MAJOR F J DELLIPIANI:

They take advantage of that for their holidays.

HON A T LODDO:

Mr Chairman, I notice the Adult Continuation Classes have gone down. Is it because there are less adults enrolling for these classes or is there any other explanation?

HON MAJOR F J DELLIPIANI

This is part of the cuts that I had to make. I am trying to

make some savings here more on the leisure classes than on the more educational adult classes. We have 12 dressmaking classes and lampshade making and pottery, and I have tried to save money in this thing. I think maybe this year, because of the border situation, we might not have so many people going to adult education classes.

HON A T LODDO:

Mr Chairman, the Financial Assistance to Youth and Cultural Activities, that has gone down by £2,500, perhaps the Minister would care to explain this.

HON MAJOR F J DELLIPIANI:

Again, in my overall estimates I had to decide where I had to cut which would least affect the educational value of schools. In this particular vote, usually in the past I have had £4,000 for cultural activities, things like the youth orchestra and photographic society, I have a committee and we meet and we distribute the money as sensibly as we can. I decided to go back from £6,000 which the Government had kindly raised from £4,000 to £6,000 rather than touch any other part of the educational system and have gone down to £4,000. It is not a very popular decision but I had to take that decision. For example, last year we bought a lot of equipment for St Jago's Fantasy Club where they have a lot of very expensive hi-fi equipment. This kind of thing does not recur every year. But let me assure you that since I have been involved in the Education Department, the Youth Careers part has increased both in staff and in money.

HON A T LODDO:

I thank the Minister for that but can I ask the Minister, when pruning as I realise he must do, would he not look into the possibility of pruning down on telephones where I think the.....

MR SPEAKER:

With respect, that has been done, the pruning has been done, it is reflected in the estimates, it is too late to say that.

HON A T LODDO:

I was just going to ask whether the Minister might not agree

with the Youth Clubs themselves that they could do without the telephone rather than without other equipment which they might find more essential and therefore save on the telephone altogether and not deprive the youth clubs of other equipment, which they might find more essential.

HON A T LODDO:

Mr Chairman, on subhead 17 - Education of Children outside Government Schools. Could I ask, and if the Minister has not got the information handy I am quite prepared to have it given to me later, how many of these are our own children and how much does it actually cost per head?

HON MAJOR F J DELLIPIANI:

It is very hard to distinguish our own children. The criteria that I have used in allowing children to go to the Services School which we have to pay for because they are Church of England, or Protestant etc, is that the parents must be paying taxpayers in Gibraltar, that is, resident in Gibraltar and paying taxes towards the Government of Gibraltar. The cost is £804 per child but in this vote there are also 3 children in special schools in England.

HON W T SCOTT:

On Educational Field Trips I notice a drop between £8,000 to £6,100 and now there is an increase. Can we have some assurance that these field trips do not include Spain?

HON MAJOR F J DELLIPIANI:

With me here, of course not.

HON W T SCOTT:

I am grateful for that.

HON A T LODDO:

Mr Chairman, I would like to go to Head 18. Rent of accommodation for Teachers. Are these all expatriate teachers or is there some local element?

HON MAJOR F J DELLIPIANI:

No, this unfortunately is that we still have not got our balance right on some of the specialised teaching that we require so we have to go to UK to bring contract teachers.

HON W T SCOTT:

Mr Chairman, one on that sub-heading, in fact. Can the Minister give us some indication as to the rents that the Government has to pay, on average, per week. I am trying to establish here whether there is any unscrupulous landlord that is perhaps over-charging for this.

HON MAJOR F J DELLIPIANI:

No such landlords.

HON A T LODDO:

In-Service Education and Development, I notice that there is an increase in the In-Service education element and I would like an explanation for this because I understood it was going to be far more economical to have the In-Service education done here.

HON MAJOR F J DELLIPIANI:

Yes, Sir, with pleasure. I am glad that Mr Loddo has given me the opportunity to highlight this. In actual fact this is to provide the tuition fees for the teacher to specialise in computer studies and the other one was for the educational psychologist.

HON A T LODDO:

Educational psychologist?

HON MAJOR F J DELLIPIANI:

Yes, because we want to localise that.

HON A J HAYNES:

The one we have been advocating on this side of the House?

HON MAJOR F J DELLIPIANI:

Mr Chairman, I think it would be dishonest of me if I did not make a short statement in respect of my department in certain heads where there does not appear to be any reduction but in actual fact there is a reduction. I would refer to sub-head 3 under Other Charges, where it says, 'Services'. In-Services there is the inclusion there of the transport element that we provide for children. I have had to rationalise the service that we provided for all the children in Gibraltar and I have brought it down and what we now give by way of cheque to parents is only 25% of the actual cost which includes all areas of Gibraltar, flat rate. I would also say that in consultation with all members, staff members, both industrial, clerical and teaching staff, I would want to go to the IRO on making savings in allowances and overtime etc, to really control expenditure as much as possible. I want to make sure there is no abuse in supply teaching, in supply cleaners, in allowances and all the rest. I do want to control the part of the education system which is not directly concerned with the actual physical teaching.

HON A J HAYNES:

Sir, the Minister said that part of Sub-Head 19, In-Service Education and Development includes funds for training an educational psychologist. Can he give more details as to what it is proposed this psychologist is going to do?

HON MAJOR F J DELLIPIANI:

I think I should clear the matter up for the Honourable and Learned Mr Haynes. We are talking of an educational psychologist. The first requirement for an educational psychologist is that he must be a teacher. It is really a teacher who will specialise in educational psychology. There are children in our schools which for some reason or other we do not know why they misbehave in such a way or why they behave as they do. Some cases are very apparent and you immediately say there is something wrong with this child and he goes to a special school which we have, St Martins School, but there are some very grey areas where only the expertise of somebody who has had some training can spot that the child has a slightly what we call educational sub-normality. The ordinary teacher might not be able to spot it and thinks the child is a troublemaker when really he might have a slight educational sub-normal problem, and here is where he will be able to guide the teacher, and say 'No, there is something

wrong with this child, this is what is wrong, this is the way to deal with him", and probably he will need extra remedial teaching etc.

Other Charges were agreed to.

Head 3 - Education was agreed to.

Head 4 - Electricity Undertaking - Personal Emoluments

HON G T RESTANO:

Mr Chairman, I notice that there has been an increase in overtime of about 40%. Can the Minister say what is the reason for this?

HON DR R G VALARINO:

Yes, Mr Chairman, the increase has been £18,000 compared to last year. The overtime involved the PTO III, the PTO IV, the draftsmen, the works supervisor, and the time-keepers plus a small token for the clerical administration. The increase really came as a result of last year where there was a tremendous amount of work. I must admit that the estimates were done prior to the introduction of the 39-hour week and before certain cuts were introduced. In this overtime vote the department may have over provided somewhat but this will be reflected in savings in the amount required to meet the pay review for 1983.

HON G T RESTANO:

The Minister said that this was for something which had already been done but here we are estimating for the year 1983/84 and secondly, I think I heard him say that he had over-provided. Can he confirm that?

HON DR R G VALARINO:

What I said is that we had over-provided for the coming year because of certain cuts which were introduced after the estimates were prepared. This will be reflected in the amount required to meet the pay review for 1983. Suppose that we over-provided by an amount of £10,000 or £15,000 and the pay review could be £80,000 this will be deducted from the pay review and we shall obtain less money from the pay review for the Electricity Undertaking and therefore the

money needed for the undertaking will be less.

HON G T RESTANO:

But, surely, Mr Chairman, any over-provision will have gone into salaries, not into overtime. Is there a need to over-provide? Is this what normally happens in Government Departments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir, if there is an over-provision here, and we would check it after the end of this meeting, I will reserve that amount so that it cannot be spent for anything, that is the best way to handle it. It is the first I have heard of it but if it has arisen then we will reserve it, it will not be spent.

HON G T RESTANO:

But, Mr Chairman, if there is over-provision would the Honourable Member not agree that that over-provision should have gone into salaries and not into overtime.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman Sir, it should not have gone anywhere.

HON G T RESTANO:

Perhaps the Minister can explain why he has made over-provision if it should not be done.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the Minister's point, if I may speak for him, is that this provision was made before the cuts. When the cuts were made there was not a consequential adjustment on the overtime. This has now been thrown up since the estimates were printed, he has mentioned it, I will reserve it and the House can rest assured that it will not be spent.

HON G T RESTANO:

May I then know what is the accurate figure estimated for 1983/84 on overtime?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I, unfortunately, Sir, can give only the figures which I have got which we have taken from the estimates provided here. For non-industrials £65,000 is the amount.

HON G T RESTANO:

I know that £65,000 is what we have in front of us but if there has been an over-provision can I have the accurate estimate for overtime for next year.

HON DR R G VALARINO:

Mr Chairman, Sir, the provision for last year was £62,200 compared to £64,900 as an estimate for the coming year.

HON G T RESTANO:

I think I asked a very simple question. I asked about the £64,900, the Minister says that there had been an over-provision so that he expects it is less in the coming year, I am asking if there has been an over-provision how much has been over-provided, that is all, it is a very simple question.

HON DR R G VALARINO:

No, Mr Chairman, Sir, I said if there has been an over-provision, Sir, not that there has been an over-provision and the estimates for 1982/83 was £62,200. Our rough estimates for this year on estimates is somewhere in the region of about £55,000.

HON G T RESTANO:

Does that mean that the over-provision is about £10,000 a year?

HON DR R G VALARINO:

Yes, Sir.

HON G T RESTANO:

Is there any element in the non-industrial staff of the Department which is involved in the Steering Committee?

HON DR R G VALARINO:

No, Sir.

HON G T RESTANO:

Is the City Electrical Engineer not in the Steering Committee, does the Steering Committee not work during working hours and therefore, would not a proportion of his wages....

MR SPEAKER:

No, I will not allow that question.

HON G T RESTANO:

Are there no secretarial expenses out of the non-industrials vote for the Steering Committee?

MR SPEAKER:

You may ask, if you want to split hairs, whether there has been any increase in the salaries, overtime and allowances which have been voted now as a result of the fact that perhaps administrative services and the City Electrical Engineer's services are being used for the Steering Committee.

HON G T RESTANO:

Has there been any increase in wages or salaries or emoluments on account of the Steering Committee?

HON DR R G VALARINO:

No, Sir.

HON G T RESTANO:

Does that mean, Sir, that any members of the Steering Committee have dedicated a little less time to the department to the actual running.....

MR SPEAKER:

No, I will not allow that question.

HON P J ISOLA:

Mr Chairman, I notice that the Financial and Development Secretary in many departmental votes charges a fee for management by the Treasury or somebody else. Let me say that it is quite clear to us, it is a matter of common sense in all industrial relations that if a lot of departmental officers are bogged down doing a particular job, they are not able to spend the time, but I am not asking that question, the question I want to ask the Minister is can he tell us whether the deliberations of the Steering Committee, where personal emoluments is concerned with non-industrials, are there likely to be any repercussion on that vote, are we likely to have to make more provision in this vote as a result of the deliberations of the Steering Committee as far as Government knows, on the non-industrials, and could that be the reason why he has over-provided in over-time to the tune of £10,000.

HON DR R G VALARINO:

Sir, let me answer the last question first. I have not over-provided in overtime due to the suggestion by the Honourable Member but as to the first part of his question the answer is yes.

HON P J ISOLA:

So the Government could come back as a result of the deliberations of the Steering Committee.

MR SPEAKER:

That is right and that will be the time when all these questions can be asked.

HON P J ISOLA:

Well, we are not happy.

HON G T RESTANO:

On this side of the House we will be voting against the whole of the electricity vote.

MR SPEAKER:

We are now voting on the Personal Emoluments as you can vote against if you so wish.

On a vote being taken on Personal Emoluments the following Hon Members voted in favour.

The Hon A J Canepa
The Hon F J Dellipiani
The Hon M K Featherstone
The Hon Sir J Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon R J Wallace

The following Hon Members voted against.

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 Hon Members were absent from the Chamber.

The Hon I Abecasis
The Hon J Bossano
The Hon D Hull
The Hon A T Loddo

Personal Emoluments was passed.

Other Charges

HON G T RESTANO:

Mr Chairman, first of all I would like to make a comparison between the wages at Kings Bastion and the wages at the Waterport Power Station, that is Subheads 2 and 6. I notice that last year the wages element at Kings Bastion was £588,000 and we are now being asked to agree to an estimate of £594,500, a slight increase, and then a further increase of £100,000 for the Waterport Power Station. Can the Minister explain why this is so?

MR SPEAKER:

I would not know but I would imagine that is a token vote.

HON G T RESTANO:

We have been told, Mr Chairman, that nothing can be done

because the Steering Committee has come to no agreement, how does the Government arrive at the figure of an extra £100,000, do they expect to employ more people?

MR SPEAKER:

For the purposes of providing for the opening of the Power Station during the course of the year.

HON G T RESTANO:

But normally a token vote, Mr Chairman, would be less than £100,000. I remember one year for one of the engines I think the token vote was £1,000.

MR SPEAKER:

At any rate, I must not answer questions and perhaps the Financial and Development Secretary will give you the answer.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, if you are expecting a large vote you then put in a large token vote and if the Honourable Member will address himself to last year's estimates, he will notice that under Waterport Power Station we had a similar provision of £100,000.

HON G T RESTANO:

Yes, but on what basis is £100,000 being put?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On the assumption that it will be a fairly high amount and that therefore to put £1,000 or £10,000, or £100 would be misleading. If you put in £100,000 it shows that we are expecting quite a substantial amount on that sub-head.

HON G T RESTANO:

In increased staff or in increased wages?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In increased wages which will probably stem from an increase in the staffing level because you have got extra engines and extra equipment.

HON DR R G VALARINO:

Mr Chairman, Sir, could I mention that in the approved estimates 1982/83, the £100,000 that appears there should be two items further up and opposite to the wages section.

MR SPEAKER:

With respect to you, are you talking about the £100,000 which appears under sub-head 8?

HON DR R G VALARINO:

Under sub-head 8, yes, it should be under sub-head 6, beside the other £100,000, so that the increase is nil. It is a typographical error.

MR SPEAKER:

You are saying that there was already a token vote of £100,000 in 1982/83.

HON DR R G VALARINO:

Yes, in the wages.

HON G T RESTANO:

Can the Minister say what is the cost today of running the Waterport Power Station by Hawker-Siddeley.

MR SPEAKER:

No, unless it is reflected in Other Charges.

HON G T RESTANO:

Well, is it not, Mr Chairman, since we are going to be asked to pay £932,000 for fuel, and a token provision of £100,000 in wages.

MR SPEAKER:

You can ask for a justification for the expenditure of £932,000 for fuel, you can do that if you so wish. If there is no wage element, there is no wage element to discuss,

that is what I am saying.

HON G T RESTANO:

There is a very definite expenditure per week, because the Government has not yet taken over the Power Station.

MR SPEAKER:

Will you please point out to me the particular subhead where that expenditure is shown and if there is not one you might perhaps ask the Minister why there is not one.

HON G T RESTANO:

Could I ask where the expenditure for the running of the Power Station by Hawker-Siddeley is found in the estimates?

HON DR R G VALARINO:

Mr Chairman, Sir, the question asked by the Honourable Member regarding the Hawker-Siddeley payment, it will be met from the wages section which is sub-head 6.

MR SPEAKER:

What you are being told is that there is a token vote of £100,000, when the figures are quantified it will reflect instead of a token vote of £100,000 the true figure.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Until the end of February when we took over the Power Station, we took over the whole of the generation from the contractors, the cost of running it was charged to the project but once we have taken it over we could no longer charge it to the project. At the moment we are putting it down to an advance account until we know how much it is going to cost us in terms of Hawker-Siddeley running it until our own staff can take it over but once we know the exact cost I would create a new sub-head to show what that actual cost was for the year, deduct it from the £100,000 which is for wages which was to cover part of that and then we would need a supplementary when we know exactly what the wages are going to be in the Waterport. As well as a supplementary provision there will have to be a book adjustment if I think it is necessary for the House to know the exact cost, putting in a new sub-head there.

HON G T RESTANO:

I am grateful for that, Mr Chairman, can I now know how much it is costing us per week?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

£19,000 per week.

HON G T RESTANO:

Is this for one or both engines?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

For the stations.

HON G T RESTANO:

Does this mean that the Government has in fact accepted No.1 engine as being in a proper state to be taken over.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not No.1, I understand.

HON G T RESTANO:

Not No.1. So it is £19,000 per week for one engine, for No.2 engine.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it is £19,000 for the two engines, but technically No.1 has not yet been taken over. The £19,000 covers the actual running of them.

HON G T RESTANO:

Does that mean that the reliability period of No.1 engine has not been completed yet?

MR SPEAKER:

No, under no circumstances.

HON G T RESTANO:

Mr Chairman, this is going to cost Gibraltar a lot of money, surely we are entitled on this side of the House to ask questions on this very important matter.

MR SPEAKER:

No, with due respect to you. You can ask what the £19,000 are going for, but let us not get involved as to whether it is No.1 or No.2 engines or whether it is correct

HON G T RESTANO:

What I am trying to establish, Mr Chairman, is that if it is for the whole station and only a few weeks ago we were told it was £16,000, I notice there has been a rise of £3,000 in a matter of weeks, what I want to know and what I want to establish is that if No.1 engine which has not terminated its reliability period, does terminate the reliability period within the next few weeks, that it is not going to be, not £19,000 but £38,000 a week.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The position, Mr Chairman, is that contractually we should have taken over the engines as soon as they are ready to start their testing but because of the enquiry that was going on this was not possible and so we entered into a separate contract with Hawker-Siddeley to run these engines. The fact that one or another has or has not been taken over does not really affect the fact that they are running both engines under a separate contract for which at the moment we are paying £19,000 a week.

MR SPEAKER:

Am I right in saying that the token vote of £100,000 cannot be exceeded without the authority of the House, is that correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is very true, Sir.

MR SPEAKER:

And therefore, if you want to exceed that vote you have got to come to the House and give explanations, and that is the time to ask these questions.

HON G T RESTANO:

How much of this £100,000 has been spent on this particular contract already because initially the gross cost was £13,000 a week and a few weeks ago it went up to £16,000 and today it is £19,000. Can we know how much of the £100,000 token vote has been used up in this particular contract?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I explained to the House that it is going into an Advance Account at the moment until we know exactly what the cost is of this contract with Hawker-Siddeley and then we will bring it back into the estimates.

HON G T RESTANO:

But can we know how much has been spent already on this?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, how many weeks since the end of February, 7 weeks, £140,000.

HON MAJOR R J PELIZA:

Is the Minister aware that if this goes on for 50 weeks it is going to cost this Government and Gibraltar nearly a million pounds and could the Minister say what he is doing to try and cut down the cost. Can he give us an idea for how long this is going to carry on.

HON DR R G VALARINO:

Mr Chairman, Sir, I do not like the word carry on. This will continue until the Steering Committee has finally decided on the manning of the Waterport Station.

MR SPEAKER:

Yes, that we already know. What you are being asked is have you got any idea when the Steering Committee will complete its work.

HON DR R G VALARINO:

It depends when the Steering Committee finishes its deliberations and decides on the posts. Mr Peliza said £100,000 and then corrected himself to £1,000.

MR SPEAKER:

No, he said one hundred million and then he corrected himself to one million.

HON DR R G VALARINO:

It shows that he has got no idea of what he is talking about.

MR SPEAKER:

No, order. Do you have any idea when the Steering Committee is going to finalise its work?

HON DR R G VALARINO:

Mr Chairman, the Steering Committee will finalise its work when it does finalise its work.

HON P J ISOLA:

Could I remind the Minister that when we had a bit of questioning on this in the March debate, the Minister expressed some confidence and some hope that the deliberations of the Steering Committee would be completed during the month of April. The Hansard will show this. Since we are on the 21st of April, it is very disturbing for us to hear from the Minister a statement that the Committee will give its conclusion when it reaches them.

MR SPEAKER:

You are asking whether the report is going to come within the stated time.

HON P J ISOLA:

We were told Mr Chairman, that during April, it was hoped, and I think it was in connection with Mr Edwards, that his services would probably not be required after the end of April and all we are asking is what has made the Minister change from a date in April to no date at all on the 20th of April. Has something gone wrong?

HON DR R G VALARINO:

Mr Speaker, in my original speech, I said that the work of the Steering Committee continues and progress was being maintained. The final manning levels and other related conditions have not been finalised and consequently it has not been possible to present a definite date as far as waterport Power Station wages are concerned. The problem is that the deliberations have slightly slowed down in the past few weeks and though it was my wish and I stated, as the Honourable Member can see in the Hansard, that I would expect an end by the end of April, this will take some weeks extra than the ones I mentioned during my contribution.

HON G T RESTANO:

Is there any reason why progress has slowed down in the last few weeks?

HON DR R G VALARINO:

Mr Speaker, Sir, progress has slowed down because of a number of factors. One is that, unfortunately, there is one meeting a week of the Steering Committee and at the same time several sub-committee meetings have been held. There is a lot of work being put into it and now that things are coming to a head we want to make sure that everything is alright and there is nothing that can go wrong before the department takes over Waterport so that we do not take Waterport Station over ahead of time.

HON P J ISOLA:

Ahead of time?

MR SPEAKER:

I am quite satisfied that we are not going to get much further on this item and that we are wasting the time of the House and

unless it is something different ^{will} I ~~not~~ allow any further questions on this item.

HON P J ISOLA:

Mr Chairman, looking at the fuel bill for Waterport, we are providing £932,000 for fuel for Waterport and only £768,000 for Kings Bastion. Am I right in thinking, that whatever the deliberations of the Steering Committee, at the end of the year the provision for wages for Kings Bastion will in fact be considerably less if, hopefully, staff has gone to Waterport Power Station. Or will we have despite a reduction of £1,200,000 for fuel in Kings Bastion, despite we have that reduction, there will in fact be no reduction on the wages side but what we will have is a much bigger bill at Waterport Power Station. I do not know whether the Minister gets my point?

HON DR R G VALARINO:

Yes, I get the point, Mr Chairman, of the Honourable Member. What he is trying to say is because there will be more fuel spent at Waterport, therefore more generation at Waterport, that the number of people there will increase and therefore subsequently the number at Kings Bastion will go down. I think this is what he has intimated, and he is correct.

HON G T RESTANO:

May I ask Mr Chairman, whether in the £100,000 token vote, that too will go towards the payment of the Chairman of the Steering Committee. Is that included there and if not where does it come in the estimates?

HON DR R G VALARINO:

That comes from a separate heading under the Treasury.

HON G T RESTANO:

I notice that this year on most of the heads of the departments, the electricity, water and telephone has been broken down into 2 separate sub-heads. I see telephones in this department but I do not see electricity or water. Where does that come in?

HON DR R G VALARINO:

Mr Chairman, Sir, the only help I can give to the Honourable Member is in Sub-Head 5 and 9, which are oil and water, with regard to the water and oil consumed in the station.

HON G T RESTANO:

Does the Department not charge itself for the electricity it uses in offices and buildings and so on because I notice that the Honourable Member's other Department, the Telephone Department, charges itself for telephones.

HON DR R G VALARINO:

Yes, Mr Chairman, the consumption of electricity which the Honourable Member refers to, is under Sub-Head 12 - Public Lighting, but it is certainly a very small item in that respect.

HON G T RESTANO:

There seems to be this year very great rationalisation throughout all the Government Departments on electricity and water on the one hand, telephones on the other and I notice that in this particular case Public Lighting has nothing to do with the electricity consumption of the department itself and its water consumption other than that for industrial use, producing electricity. I would have thought that perhaps we would have seen rationalisation in this department as well. Perhaps the Minister will explain why there has not been this rationalisation.

HON DR R G VALARINO:

As far as I know there is no charge for water and electricity within this department's vote.

HON G T RESTANO:

Sir, on sub-head 20, Maintenance and Running Expenses of Transport, can I ask the Minister whether log books are being used under the Maintenance and Running Expenses of Transport.

HON DR R G VALARINO:

Sir, this came up before in the Public Accounts Committee, if I remember rightly. I have no certain knowledge as to whether

log books are being maintained but what I shall do is that I shall find out and I shall inform the Honourable Member accordingly.

HON W T SCOTT:

There was a drop of almost 50% in the training of Staff and Apprentices. Would the Minister care to comment on that?

HON DR R G VALARINO:

There has been a decrease because we have decreased the general vote gradually, Sir, most of the votes will show a decrease. This is the main reason why there has been a decrease in this one.

HON W T SCOTT:

I just want a general explanation. I am not referring to this year, I am referring to between the approved and the estimated last year where last year when Government came to the House asking for £33,200, surely, they must have had some indication of how they were going to spend it. But in the end result, they spent somewhat less. They only spent £22,000 on training of Staff and Apprentices and that is the question that I am asking the Minister.

HON DR R G VALARINO:

I believe that the decrease was mainly because we did not take as many apprentices as we envisage to take this year.

HON W T SCOTT:

Distribution Service - Subhead 22. What has been spent this last year is very considerably less than that which was voted. Can we have some explanation on that, that was as a result of what? We voted £239,000 out of which only £98,000 was spent.

HON DR R G VALARINO:

Sir, last year we only spent £98,000 and this year we need £198,000. This is because the distribution service last year dealt mainly with works involving Waterport Power Station and a lot of their salaries came out of the Improvement and Development Fund, out of various small sub-heads in that region, not of the main sub-head which was Waterport.

HON W T SCOTT:

I would have thought, Mr Chairman, that this would have been envisaged at this time last year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I wonder if I might just give a general note of explanation to the House on this. I found that over the past three to four years the Improvement and Development Fund was becoming cluttered with a lot of very small items of Improvement and not being kept for the major Improvement and Development of the Government stock and therefore, we decided that this year we would bring these smaller items into the body of the recurrent estimates where they really belong, leaving the Improvement and Development Fund for major projects and that is why in one or two heads the small items will be found to have been increased.

HON W T SCOTT:

I can accept that, Mr Chairman, but in fact he has hit on a sub-head that in the Improvement and Development Fund there is an item there I think it is something like £67,000 which is quite small for that Head and that is for the foundations of No.9 Engine.

HON DR R G VALARINO:

Mr Chairman, Sir, this is for this year. I am talking about last year's expenditure in the Improvement and Development Fund.

MR SPEAKER:

The Minister is right. You have asked why, if the approved estimates is £239,000, the revised estimates was only £98,000. The difference will be shown in last year's Improvement and Development Fund and not in this year's.

HON W T SCOTT:

I agree, Mr Chairman, and we have just had an explanation from the Honourable Financial and Development Secretary. I am trying to find out why with what the Financial Secretary has said, there should be an item of £67,000 in the IDF which obviously when we do come to that Fund I will ask

questions on it. But there is an inconsistency there as far as I am concerned because otherwise that £67,000 would appear under Head 4 this year.

HON DR R G VALARINO:

Mr Speaker, Sir, I did mention that in my speech as well. That £67,000 is reserved, this is with regard to the foundation of No.9 at Kings Bastion, because it was intended to rebuild this engine in order to replace badly worn jointing but it was reserved because the project application had been submitted to ODA for a third engine. Once we know the outcome of the submission to ODA, then Council will take a decision on whether the reserved money of £67,000 will be spent or not in rehabilitating Engine No.9.

HON G T RESTANO:

Subhead 24. Electricity. Areas supplied by Ministry of Defence. With two new engines at Waterport why should there be a need for provision to pay the MOD £12,400 in the coming year?

HON DR R G VALARINO:

Mr Chairman, Sir, there are certain areas within Gibraltar which are supplied by the Ministry of Defence the same as we supply the Ministry of Defence and then that is taken away from the inter-connector. This is the area supplied by the Ministry of Defence to the Government of Gibraltar. This is North Gorge, Lower Bruce's Farm, Devil's Gap and Camp Bay. These areas are supplied to us. These are bills to the Accountant General, therefore we do not see this money.

On a vote being taken on Other Charges the following Hon Members voted in favour.

The Hon A J Canepa
The Hon F J Delliplani
The Hon M K Featherstone
The Hon Sir J Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon R J Wallace

The following Hon Members voted against.

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 were absent from the Chamber.

The Hon I Abecasis
The Hon D Hull

Other Charges was passed.

Special Expenditure

HON G T RESTANO:

Mr Chairman, am I correct in assuming that the totals for the temporary generating plant of £40,000 in the coming year, £205,800 revised estimates last year, and £245,580 the previous year, is that the total cost of the temporary generating plant? Is that the entire and the total cost amounting to almost £½ million?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir.

HON P J ISOLA:

Could I ask why during the year 1982/83 there was a need to purchase £20,000 from the inter-services generating station? Is that the same thing as what my Honourable friend raised?

HON DR R G VALARINO:

Yes, Sir.

On a vote being taken on Special Expenditure the following Hon Members voted in favour.

The Hon A J Canepa
The Hon F J Dellipiani
The Hon M K Featherstone
The Hon Sir J Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon R J Wallace

The following Hon Members voted against.

The Hon J Bossano
The Hon A J Haynes
The Hon P T 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 were absent from the Chamber.

The Hon I Abecasis
The Hon D Hull

Special Expenditure was passed.

Head 4 was accordingly passed.

Head 5 - Fire Service - Personal Emoluments

HON G T RESTANO:

I would like to know if there is anything in the wages and salaries which will be contributive to the introduction, if any, of fire extinguishers throughout the private sector.

HON DR R G VALARINO:

No, Sir, no provision.

HON G T RESTANO:

It will be done with existing staff or it won't be done?

MR SPEAKER:

It is not going to be done, I would imagine.

HON G T RESTANO:

I would like to know if these fire extinguishers will be introduced or if they are introduced, the existing staff will be able to cope with that introduction.

HON DR R G VALARINO:

Sir, the existing staff will be able to cope with the introduction of the fire extinguishers in Government dwellings.

HON G T RESTANO:

Can I ask then what will be the responsibilities of the existing staff that has got to cope with the situation. Does that mean that they will go into the whole of the private sector dwellings to find out where fire extinguishers need to be placed and so on?

HON DR R G VALARINO:

Mr Chairman, Sir, the Hon Member is now talking about the private sector. Those regulations have not been passed, as he asked the Attorney General in the previous meeting of the House. He is now talking about the public sector, and as far as the public sector.....

HON G T RESTANO:

No, I am not talking about the public sector, I am talking about the private sector. That is what the law was brought to this House for.

HON DR R G VALARINO:

Mr Speaker, Sir, there is nothing here about the private sector and he has been told by the Attorney General that regulations have not yet been enforced as far as the public sector are concerned, so how can he bring up this point.

HON G T RESTANO:

Wasn't I then right in saying, in my statement earlier on....

MR SPEAKER:

What are you asking?

HON G T RESTANO:

That we will not see the implementation of that particular law within the next 12 months.

MR SPEAKER:

Well, fair enough, but that is not a question, let us leave it at that.

HON DR R G VALARINO:

Mr Speaker, Sir, the Honourable Member should ask what he wants to ask and not go round the mulberry bush.

Personal Emoluments was agreed to.

Other Charges

HON P J ISOLA:

Mr Speaker, Subhead 7. On the replacement and maintenance of fire fighting equipment, there is a drop of £2,000. What does that mean in terms of the fire extinguishers in all Government housing?

HON DR R G VALARINO:

Mr Speaker, this has nothing to do with the replacement of fire fighting equipment in Government dwellings. This is replacement of foam stock communications equipment and spares, fire fighting hoses, breathing apparatus and spares, resuscitation equipment and replacement of normal fire fighting equipment.

HON P J ISOLA:

Is there no provision at all for fire extinguishers in Government housing, Government does produce new houses. Is there any provision at all anywhere?

HON DR R G VALARINO:

Yes, Mr Chairman, Sir, Sub-head 12, Fire Precautions in Government premises.

HON W T SCOTT:

Under Other Charges, I notice there is a drop in staff training this year, Mr Chairman.

HON DR R G VALARINO:

Sir, this is for the attendance of 3 Sub Officers to UK on a breathing apparatus instructors course. This will take 2 weeks and another one for 3 weeks to the civil aviation authority officers course. The major point is a senior command course which will take 3 months but this comes through technical assistance, therefore it is not reflected in the estimates.

HON A J HAYNES:

Mr Chairman, the token sum of £200 for Oil Pollution. What does this envisage?

HON DR R G VALARINO:

Mr Chairman, Sir, this figure on oil pollution basically a figure which has been put in just in case we need further stocks in dealing with a problem like we had 2 years ago. This is really a token figure, to enable us to ask for a warrant should the need arise.

HON A J HAYNES:

Mr Chairman, I take it then that the Minister is talking about the Fire Brigade attending to oil-pollution as and when it occurs on our shores. Does the Minister have the wherewithal to combat any grave situation that may arise by way of oil leakage or would he have to come first of all to this House to get the money? Does he have any equipment, etc?

HON DR R G VALARINO:

Yes, Mr Chairman, as far as I know we have the full amount of equipment as far as stocks are concerned. If I remember rightly not only do we have some but the RAF have got some which they will lend us within a short time if necessary but if the occasion demands then we have to get some of them in

a hurry, and this is to allow us to be able to get this sort of equipment here in Gibraltar to deal with the emergency and to deal with it as quickly as possible.

HON A J HAYNES:

Sir, has the Minister made any enquiries into the likely effect of any major shipping disaster in the Straits?

MR SPEAKER:

No, with respect, not under an itemised sub-head otherwise we will debate.

Other Charges was agreed to.

Special Expenditure

HON G T RESTANO:

Can we have some details of Item 80. Purchase of Motor Vehicle.

HON DR R G VALARINO:

Yes, Sir, the £2,000 for the motor vehicle is to replace a Volkswagen which was condemned and in fact, it is a Volkswagen G27890 and to try to replace it by a Morris Marina.

HON G T RESTANO:

And does the Morris Marina cost £2,000?

HON DR R G VALARINO:

Mr Chairman, this will be going out to tender.

MR SPEAKER:

It is a token vote, in other words, it is a token vote for the purchase of the vehicle.

HON DR R G VALARINO:

No, it is not a token vote, Sir, it is an actual vote.

MR SPEAKER:

Will you please tell me where you can get a Marina for £2,000?

HON G T RESTANO:

Perhaps in this vote there has been an under provision. If they want to buy a Marina which would cost about £4,000, where is the difference going to come from?

HON DR R G VALARINO:

Mr Chairman, Sir, apart from the fact that we do not pay for duty, we shall go out to tender. If we cannot buy a Marina we shall have to buy something far more simple to be able to fit in with the amount provided in the estimates. The Opposition does not seem to realise that we have cut our own estimates in order to be able to fit in with the picture.

HON G T RESTANO:

But if it costs more Mr Chairman, will it have to come from another vote or a re-allocation?

MR SPEAKER:

Most certainly.

Special Expenditure was agreed to.

Head 5 - Fire Service was agreed to.

The House recessed at 5.15 pm

The House resumed at 5.50 pm

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I must apologise to the House for inadvertently having misled it on Head 4, Electricity, Special Expenditure, the temporary generating plant. The Honourable Mr Restano asked whether the amount shown which amounted to some £½ million, was the total for the cost of the generators and having consulted I said yes. I am afraid that it slipped our minds, and it should not have slipped mine because it was in front of me that in 1980/81 we also spent £146,000 so that in

fact the total cost is £646,000 approximately. However, I have also checked and we are still of the opinion that it was cheaper to have hired than to have purchased.

Head 6 - Governor's Office was agreed to.

Head 7 - House of Assembly - Personal Emoluments

MR SPEAKER:

May I by way of explanation and I think in fairness to the staff of the House of Assembly say that overtime is not the overtime payable to the staff, it does include an element of that, but it is the amount paid to what we call PBR which is the transcribing and audio-typing of Hansard by staff outside the House.

HON G T RESTANO:

In view of the heavy workload in this department is the Government considering increasing the establishment?

HON CHIEF MINISTER:

I am a bit unaware of the latest situation, I know there have been representations made about supplementing and I do not know whether there was a staff inspection or not.

MR SPEAKER:

There has been a plea from me occasionally. We have had a staff inspection which said that we did not need extra staff which we disagree with.

HON CHIEF MINISTER:

The point is that the House has had two very long Select Committees going and that has taken a lot of the time of this House and of the staff too.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, Mr Chairman, in answer to Mr Restano's question, there has been a staff inspection with which Mr Speaker I do not think necessarily agreed and he is in good company because I do not agree with any staff inspections on my department, which did not recommend any change. However;

I had talked to Mr Speaker and also to the Clerk about some ways in which we might save money to get extra work done and it is something which we are going to investigate but it would not mean an increase in staff.

HON MAJOR R J PELIZA:

Mr Chairman, perhaps this is the opportune moment for me to raise the point that I have always raised about the index.

HON CHIEF MINISTER:

It is the worst time to raise it.

HON MAJOR R J PELIZA:

Well, if it is the worst time I think it is about time, in my view, that the House becomes conscious that we are paying considerable money as we can see from the amount of which no doubt a lot of that goes into the typing and publishing of the Hansard and unfortunately it cannot be used unless someone is prepared to go on reading year after year long winded speeches, including my own, I think it would make life much easier for any person who would like, Mr Chairman, to find out on any particular subject what has developed during the years to be able to look it through an index, this is common-sense, otherwise in my view we might as well not keep a Hansard and I would suggest to the House that it gives very serious consideration to have an index. I do not know of any record of that nature in any House that I have been in touch with that they do not possess an index and I do not think that the amount that would involve would amount to so much that this House cannot afford to have it.

HON CHIEF MINISTER:

It just occurred to me, Mr Chairman, honestly it just occurred to me for the first time, that this is a matter that could be let out on the basis of somebody who is used to research and so on to be able to provide it on a sort of consultancy basis, do it for once and then be kept up in the future.

Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure

HON MAJOR R J PELIZA:

Mr Chairman, on the £18,000 that I see here for election expenses. Could the Chief Minister say if he has taken the hint given both by myself and the Hon Mr Bossano who is not here at the moment, whether he would in fact utilise that money a little earlier than he foresaw and perhaps have an early election?

HON CHIEF MINISTER:

Anything I say now will purely be misleading, I have not made up my mind.

Special Expenditure was agreed to.

Head 7 - House of Assembly was agreed to.

Head 8 - Housing - Personal Emoluments

HON A J HAYNES:

Mr Chairman, I notice that there was no need for seven extra typists. Can the Minister say therefore if the lists are functioning well or whether there is a likely increase in staff to be made?

HON J B PEREZ:

There is no likelihood of increase in staff this year.

HON A J HAYNES:

Mr Chairman, on this point. It has been announced, as a result of a question asked, that the Housing Department has to move to I think it is St Margaret's Commercial School. In that event, Mr Chairman, will there be a review of the staff requirements or not?

HON J B PEREZ:

I do not see any need for that, Mr Chairman.

Personal Emoluments was agreed to.

Other Charges

HON A J HAYNES:

Mr Chairman, on Other Charges, the Upkeep and Operation of Centres. There is an increase of £3,000, can the Minister explain why this is so?

HON J B PEREZ:

This is the normal increase in water and electricity charges, a 10% increase.

HON A J HAYNES:

Mr Chairman, last year we were told that the upkeep and operation of Centres was going to be increased as a result of the cost of unmetered water used at such places as the Town Range Centre. Will the Minister now state whether these Centres have now been metered or not?

HON J B PEREZ:

Mr Chairman, first of all let me inform the Hon Member that if he has a close look at the revised estimates for 1982/83 he will see that we in fact over-spent in that vote by £10,000 so the estimated expenditure for 1983/84 is down from £30,000 to £23,000. In answer to your second question, yes, the meters have been installed by the Public Works Department, unfortunately they have been vandalised to quite a large extent and they are being repaired by the PWD.

HON A J HAYNES:

Mr Chairman, does the Minister anticipate that with the successful operation of meters, actual expenditure will be less than that for which we are now making provision?

HON J B PEREZ:

That is why I say that if the Hon Member has a look at the revised estimates, we spent last year £30,000 so we are estimating that we will spend this year £23,000 which is a reduction of £7,000.

HON A J HAYNES:

On Sub-head 6, Mr Chairman, Supervision of Crown Properties. Can I have an indication of what the increase is due to? Mr Chairman, before he replies can he give us a breakdown on the number of workmen we are talking about, the number of the workforce?

HON J B PEREZ:

Mr Chairman, the total workforce under that Sub-head is six maintenance wardens, four assistant wardens, one handyman, one driver, twenty-two labourers, two boy labourers and the total wages and allowances is £179,000.

HON A J HAYNES:

Has there been an increase then in the workforce for this year or not?

HON J B PEREZ:

No, Sir, there has been no increase.

HON G T RESTANO

What does this workforce do?

HON J B PEREZ:

They are responsible for cleaning the estates.

HON G T RESTANO:

Cleaning?

HON J B PEREZ:

Well, in the estate and the maintenance of the estate, we have the wardens structure but most of the workers are in fact responsible for collecting things like cardboard boxes and other things which the normal refuse collectors do not collect from the Estates. So what happens in the morning, say at Varyl Begg, you will get refuse collectors who go there, their spillage would be collected by these people from the Housing Department and then the Housing Department lorry will

go down to the Estate and take the remaining refuse away. In other words, we collect what is left behind by the Public Works.

HON A J HAYNES:

Can the Minister state whether he has made any enquiries as to whether the Tenants Association could be given some of this work of supervision of Crown Properties?

HON J B PEREZ:

I wish the Tenants Association instead of being given the supervision would help the department in making sure that people would not dispose of fridges, cookers, beds, etc. I do not see the need for giving the supervision to the Housing Associations. In any event if they were not satisfied with the work that was being done they normally tend to write to either the Public Works or to the Housing Department.

HON A J HAYNES:

Mr Chairman, has the Minister made any efforts to coordinate the maintenance and cleanliness of Estates with the Tenants Associations?

HON J B PEREZ:

Yes, I have.

HON A J HAYNES:

What is the result, Mr Chairman?

HON J B PEREZ:

Mr Chairman, I have spoken to various Housing Associations about this and I have not had any complaints as far as the Housing Department is concerned about the work that we were carrying out. In fact, the Varyl Begg Tenants Association were quite happy with the work that the employees of the Housing Department were carrying out, that is, the sweeping within the Estate and the collecting of spillage. We have had no complaints.

HON G T RESTANO:

On the next Sub-head, Mr Chairman, the maintenance of Government Housing. What does that consist of?

HON J B PEREZ:

Mr Chairman, mainly this vote is for both pre-war and post-war dwellings which are vacant and which require a certain amount of rehabilitation. Instead of giving it to the Public Works Department we have a small labour force and we carry out minor jobs in order to try and quicken the rehabilitation but mainly it is done for pre-war housing.

HON G T RESTANO:

How many houses would be rehabilitated in a year?

HON J B PEREZ:

I really have not got that information, I could give the Hon Member the information at a later date. First of all, Mr Chairman, I have not been Minister for a full year so I really have not got that information but I can let him have it.

HON A J HAYNES:

Mr Chairman, on Sub-head 8, the staircase lighting. Is the Minister making any efforts to reduce the cost?

HON J B PEREZ:

First of all let me say, Mr Chairman, that there is an element in the rent in connection with the staircase lighting in most Estates. This is a very difficult vote for the Housing Department to control because we get the bill at a later stage and I think the only effective way that I can think is to increase the element of the staircase lighting into the rents, it is really used by tenants of a particular building. I do not see any other way.

HON A J HAYNES:

Has the Minister made any contact with the Tenants Associations in this respect, Mr Chairman?

HON J B PEREZ:

No; to be perfectly honest, Mr Chairman, I have not.

HON W T SCOTT:

Is all this amount included as a drawback in the element of rents.

HON J B PEREZ:

I do not think so.

HON W T SCOTT:

Will the Minister consider putting all of this as part of the element of the rent?

HON J B PEREZ:

What I am saying is that in the rents that are paid by tenants there is an element which is taken into account as far as staircase lighting is concerned. I am not entirely au courant with what the percentage is, I do not work that out.

HON W T SCOTT:

What I am asking the Minister is would he not consider putting this sum, this total sum, so that there is the drawback and the increased rent takes care of the £65,200 so that it is the tenants that are paying for their own staircase lighting?

HON J B PEREZ:

What I am getting at is I do not know what percentage of the rent takes this into account. It may well be that the full £65,200 which is estimated for next year is in fact recouped through rent but I would be misleading the Hon Member if I were to say the percentage because I do not know.

MR SPEAKER:

I think what the Hon Minister is saying is that the percentage and the element of rent is not proportional to the amount recouped.

HON J B PEREZ:

But: it may well be, Mr Chairman, that we are recouping the full £65,000, I do not know.

HON W T SCOTT:

I am asking him that if it is not will he ensure that it is?

HON J B PEREZ:

Yes, I will look into that, Mr Chairman.

Other Charges was agreed to.

Head 8 - Housing was agreed to.

Head 9 - Income Tax Office - Personal Emoluments was agreed to.

Other Charges

HON G T RESTANO:

Mr Chairman, under Sub-head 4, Office Rent and Service Charge. Is it not the intention for the Income Tax Office to move out of these rented premises?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, but it will take some time before the new accommodation is ready, probably a year to eighteen months.

HON G T RESTANO:

Is this the old St Jago's?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman.

Other Charges was agreed to.

Head 9 - Income Tax Office was agreed to.

Head 10 - Judicial (1) Supreme Court - Personal Emoluments

HON G T RESTANO:

We did make a comment in the Second Reading of the Bill, Mr Chairman, that the Admiralty Marshal does not appear to have the necessary back-up for the arrest of vessels and I wonder whether anything is being done to remedy the situation?

HON ATTORNEY-GENERAL:

Mr Chairman, I would be grateful before answering if the Hon Member could expand in what sense he does not appear to have sufficient back-up?

HON G T RESTANO:

Well, we do know of a case quite recently where an arrested yacht was able to leave Gibraltar.

HON ATTORNEY-GENERAL:

The fact that that may happen on one occasion, Mr Chairman, I do not think necessarily implies that the Admiralty Marshal does not have sufficient back-up. At the moment I am not aware of any plans to increase that back-up.

HON G T RESTANO:

So the Hon Member is saying that he is quite satisfied with the back-up that there is?

HON ATTORNEY-GENERAL:

I am not satisfied, Mr Chairman, that a boat should break arrest. What I am saying is that the fact that one boat breaks arrest, does not necessarily indicate that there is not sufficient back-up.

HON G T RESTANO:

Would the Hon Attorney-General then say that there is room for improvement?

HON ATTORNEY-GENERAL:

Of course, there must always be room for improvement but I think I have made the point I wish to make.

HON G T RESTANO:

Is there any intention to do anything about improving the service?

HON ATTORNEY-GENERAL:

I think not at the present moment.

HON CHIEF MINISTER:

I had an experience some years ago in which I think subsequently there was some problem against the Government which I never heard the end of on another tack, and it is simply that when a ship is arrested even though, as I think the Leader of the Opposition quite rightly said, one has to deposit a very substantial amount of money to ensure the arrest, it can only be done by the employment of watchman on board and if somebody comes with a gun and puts the watchmen ashore all the back-up that the Marshal can be given unless he has got armed people or unless an Order could be obtained from the Court, as I tried on one occasion, to remove some part of the engine that would not allow the ship to sail, it is bound to happen.

HON ATTORNEY-GENERAL:

Mr Chairman, may I make one point clear. I recognise that Admiralty Marshal work is an important aspect of work in Gibraltar and if there were reasons to be seriously concerned that there was need for a greater back-up obviously the matter would be looked at, the importance of the work is not lost sight of.

HON A J HAYNES:

Mr Chairman, our concern as indicated in the prepared speech of my Hon Friend, Mr Restano, indicated that not only were we not satisfied as to the back-up available to the Admiralty Marshal but we are concerned at the Financial Centre aspects of arrest, and Mr Chairman, I would like to ask Government whether they share our view that there is a certain amount of

mileage to be made from enhancing Gibraltar's facilities for arrest. Mr Chairman, if I may add at this juncture that arrests are often undertaken willingly by third parties who want to have a dispute settled and it is something that if Gibraltar provides a suitable service they would come here to have the matter resolved under British law at a cost which they know would not be prohibitive. If the Government share the view that there is the possibility of enhancing Gibraltar's facilities in a Finance Centre capacity for the arrest and settling of disputes in Admiralty matters, will the Government ensure that all measures are taken to enhance that?

HON ATTORNEY-GENERAL:

I think it was implicit in my last voluntary answer that I think it is recognised that this sort of work is particularly good work and attractive work for Gibraltar. I think more generally actually that the judicial services, and this is a personal view I am expressing now, that the judicial services available in Gibraltar could very well be a sort of attraction to outsiders, I am thinking particularly in terms of arbitration and the ability to get decisions under British justice quickly. I think the Government is aware of it.

HON A J HAYNES:

Mr Chairman, will the Minister confirm that before the arrest of that which the Chief Minister referred to, the "Centaurus", there was a thriving practice in admiralty work which has now declined as a result of the greater expense which is entailed in the present system for arresting a ship. Will the Minister confirm that?

HON ATTORNEY-GENERAL:

Sir, I am not aware of the impact this has had on the attractiveness of the use of Gibraltar as a place for arresting vessels.

HON A J HAYNES:

May I ask if the Attorney-General ^{could} undertake an investigation into this, it is a serious matter and one which could enhance Gibraltar's Finance Centre attraction.

HON ATTORNEY-GENERAL:

Yes, Sir.

Personal Expenses was agreed to.

Other Charges was agreed to.

Magistrates and Coroners Courts - Personal Emoluments

HON G T RESTANO:

Does the Government have any intention of providing a Bailiff for the Magistrates Court?

HON ATTORNEY-GENERAL:

There is a need for a Bailiff. There is a need for a person to execute judgements of the Magistrates Court and that is a matter which the Government is aware of.

HON G T RESTANO:

Would the Government not agree that there is a certain amount of urgency in having that post filled?

HON ATTORNEY-GENERAL:

Mr Chairman, I agree that there is a certain amount of urgency. If I can elaborate I think that an important factor in law enforcement is that if the public know that there is the availability of a Bailiff to enforce such matters, by and large, most people will accept the judgement of the court and meet it or comply with it. It would be a matter of concern, I think if people felt that there was not to be any follow-up and I think that could have an effect on the general attitude of people towards Court Orders. I am aware of the urgency of it.

HON G T RESTANO:

Can we expect to see that post filled within the next few months, Mr Chairman?

HON ATTORNEY-GENERAL:

I think that is a matter for Government, Mr Chairman but, certainly, the point of urgency made is noted.

HON A J HAYNES:

Would the Attorney-General also enquire into the availability of a store for the Bailiff, it is my personal experience that without a store a Bailiff is unable to operate.

MR SPEAKER:

I am sure the matter will be looked into when it is considered to appoint a Bailiff.

Personal Emoluments was agreed to.

Other Charges

HON W T SCOTT:

Mr Chairman, there seems to be a drop in electricity, water and telephone service compared to the public utility cost last year. It is only a small drop but it seems to be one of the few departments of Government, in fact, that shows a drop.

HON ATTORNEY-GENERAL:

I would have to enquire into the reason for this drop.

Head 11 - Labour and Social Security - Personal Emoluments

HON W T SCOTT:

Mr Chairman, last year, I think five clerical assistants were employed as part of the staff required to man the Key and Anchor Club to register unemployed Spaniards. This year there was not a requirement other than in December. What seems to have happened throughout the course of the year is that those five clerical assistants have been intergrated with the department as a whole and we now find another eight as supernumeraries employed for the Key and Anchor Club, making a total between this time last year and today of thirteen individuals for the Key and Anchor Club. Can we have some explanation on that please?

HON MAJOR F J DELLIPIANI:

Mr Chairman, first of all, I would like to correct the establishment under Item 17, where it shows one messenger in

1983/84, there should be two messengers. With respect to what the Honourable Mr Scott said, the last year's establishment was 64. The staff which was required for the Key and Anchor amounts to eight and the supernumery staff would be one executive officer, five clerical officers and two clerical assistants. Sixty four of last year and eight under the Key and Anchor make seventy two, they have not, as yet, been really intergrated with the main department. I would say, in fact, that we have not got five clerical officers, we only have three clerical officers, because the other two clerical officers would be cashiers. As we are not paying out at the moment we have no need for the cashiers. What is happening is that we are collecting the information that we have on employment and on pensions and processing the different claims made against us but there has been no decision as yet as to when we will pay so there has not been any need for the employment of the two clerical officers. On the whole of the establishment you will notice that there has been no increase. The increase from sixty four to seventy two is there by virtue of one extra messenger, which was there in any case last year, and the eight supernumery staff which are meant to deal with the question in relation to Spanish pensions and employment.

HON W T SCOTT:

I apologise, Mr Chairman, I obviously did not make myself clear enough. In the approved estimates of 1982/83, we find that at this time last year the establishment rose by nine, five of which we were told at the time, making it a total of sixty four, which is the total that appears in today's estimates. We were told then that five out of the ten which were clerical officers were going to be employed to man the Key and Anchor Club out of a total of that sixty four. What we find this year is that those five which were originally employed for the Key and Anchor Club, seem to have been intergrated.

HON MAJOR F J DELLIPIANI:

The extra bodies are related to the staff inspection that the department had. Because we have bigger unemployment we have employed, if you notice, two extra social workers. They have nothing to do with the labour inspectorate. The increase for the Key and Anchor are the supernumery staff. The rest are to do with the general day-to-day office duties as a result of staff inspection.

HON W T SCOTT:

Am I right in assuming that the five that were originally employed at this time last year for the Key and Anchor, the staff inspection, were taken within.

HON MAJOR F J DELLIPIANI:

That is right, because they were trained already. They were employed, in fact, in December.

HON W T SCOTT:

Does Government intend continuing with the present level of manning at the Key and Anchor Club?

HON MAJOR F J DELLIPIANI:

The manning level at the Key and Anchor is, as I say, six at the moment. Government will take a decision soon whether to continue as we are at the moment. If we did not have the Key and Anchor, because of the lack of physical space we would not be able to have coped with the amount of people who have come in for enquiries, we have been able to channel them off. If you go any morning to the main branch you can hardly get in, people start queuing up and with all the Spaniards that have come to make enquiries, we would not have been able to serve our own people. Obviously, a decision has to be taken soon as to whether we continue with this service or not.

HON W T SCOTT:

I can accept that, of course, Mr Chairman, that there was a need to start another registration centre exclusively for Spaniards but I am glad that the Minister has said to the House that it will be reconsidered because I feel that perhaps saturation point could have already been reached and all that is coming now is a trickle which might not necessitate having so many people manning that particular office.

HON MAJOR F J DELLIPIANI:

Yes, I reiterate what I have said that we must make a decision.

HON G T RESTANO:

Is it the responsibility of the staff here to pay the

unemployment benefit?

MR SPEAKER:

Which staff, the Key and Anchor Staff?

HON G T RESTANO:

No, no, of the Labour and Social Security.

MR SPEAKER:

Yes, the answer is yes.

HON G T RESTANO:

Can the Minister say where does one find the expenditure vote for Unemployment Benefits?

HON MAJOR F J DELLIPIANI:

In the Social Insurance Fund.

HON MAJOR R J PELIZA:

Mr Speaker, I would rather like to take the opportunity to pay tribute to Mr Gareze who for many years has been the Director of this Department. I know from the time that I was in Government in 1969, what sterling work he did for this Department, particularly at the time of the closure of the frontier and I think this should be recorded by the House.

HON W T SCOTT:

My Honourable colleague on my right jumped up before I was going to say that but I would like to associate myself totally with the sentiments passed because for the 3½ or 4 years that I have been in this House and shadowing that Department, I have received nothing else but the highest courtesy and the greatest of help from the Director and I am very grateful for it.

HON MAJOR F J DELLIPIANI:

I would like, since Mr Gareze is not here, I would like to thank the Honourable Members opposite and my colleagues

share their view. In actual fact, in the farewell party that we gave Mr Gareze I mentioned the fact that the Opposition held him in very high esteem and in particular I mentioned the Honourable Mr Willie Scott.

Personal Emoluments was agreed to.

Other Charges

HON W T SCOTT:

Mr Speaker, it does not appear in one of these sub-heads but the department is responsible for the Social Insurance Fund and obviously I would need your guidance and direction on this.

MR SPEAKER:

What is your problem?

HON W T SCOTT:

The second reading of the Appropriation B bill by the Financial and Development Secretary about there perhaps being a need for a certain reserve for possible unemployment in the 3rd and 4th quarter of this year as a result of the dockyard closure. I think that was a comment in general terms. But since unemployment benefit is paid by the Social Insurance Fund, I wonder whether you would allow me to pose the question whether Government has entertained the thought of making a budgetary contribution to that Social Insurance Fund, if the fund itself cannot stand the call on it by the possible unemployment within the Dockyard.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The unemployment pay is only paid from the Fund for the first three months, after that it comes out of the Consolidated Fund.

HON W T SCOTT:

Well, I mentioned that Mr Speaker, because under supplementary estimates here that does not seem really to have been taken into account.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Dockyard has not closed yet.

HON P J ISOLA:

But in actual fact, Mr Speaker, there would be no need to make provision. Supposing the Dockyard closed, there would be no need to make provision for supplementary benefits in this financial year because of the unemployment benefit.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Honourable and Learned the Leader of the Opposition is quite correct.

HON G T RESTANO:

Does not unemployment benefit cease after 13 weeks and then the persons go on to supplementary benefits?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir.

HON G T RESTANO:

I would like to ask one question on supplementary benefits with the background of what the Minister said in his contribution yesterday about youngsters being very choosy in the work they are prepared to take. What is the policy in the granting of supplementary benefits to young persons who do not take up work that is offered to them through the department?

HON MAJOR F J DELLIPIANI:

Nothing.

HON G T RESTANO:

What do you mean by nothing, what is the policy?

HON MAJOR F J DELLIPIANI:

The policy is to give them nothing.

HON MAJOR R J PELIZA:

I am sorry I did not understand that. Do they not receive any money?

HON MAJOR F J DELLIPIANI:

The policy is to give them nothing.

HON G T RESTANO:

So they receive no income.

HON MAJOR F J DELLIPIANI:

One of the suggestions that I took on from the Honourable Mr Scott was to try and make them go to different courses in the Construction Training Centre and we encourage them by paying them an attendance allowance of £10 a week and whilst the young man was in the Construction Training Centre he was considered to be in school so that the family would not lose the family allowance. They have shown no interest so obviously they must be very well maintained by their family when they can afford to give up £10 a week.

HON G T RESTANO:

Am I correct in thinking that when a child comes out of school and is unemployed, he would get unemployment benefit for 13 weeks.

HON MAJOR F J DELLIPIANI:

When he comes out of school he gets nothing because he has not contributed to the Social Insurance Fund.

HON P J ISOLA:

Can I ask, in the case of somebody who has been in employment and has fulfilled the conditions in the Social Insurance Ordinance to qualify for unemployment benefit, what happens if he does not accept, is he entitled to the unemployment benefit or is it the same position?

HON MAJOR F J DELLIPIANI:

No, he is disqualified. If he is offered a reasonable job which he is capable of doing and he refuses, he is disqualified.

HON MAJOR R J PELIZA:

Could the Minister say what the reaction generally is? Is it successful or do we find lots of people who just do not react favourably. What is the real position?

HON MAJOR F J DELLIPIANI:

Very few people refuse to work.

HON MAJOR R J PELIZA:

Mr Chairman, I have got three questions. One is Sub-head 9, Sponsored Patients. I see there is an increase of £30,000 but in fact it is an increase on an approved estimate. Does he believe that it is going to cost that extra much this year, is it costing more to send patients? Are we going to be more liberal? Can he explain?

HON MAJOR F J DELLIPIANI:

This is a projection we make. If we have to send more patients and we have to pay we ask for supplementary provision. We try and make a projection. This has nothing to do with the payment, this is the maintenance and the escort, the travelling expenses, etc.

HON MAJOR R J PELIZA:

Thank you very much. The other one is Accommodation of Labour. Could the Minister explain if in fact we make any money on this? Obviously some part of that must be derived from some income from the hostels, or do we lose money?

HON MAJOR F J DELLIPIANI:

Taking away capital expenditure of major repairs and all the rest, it is almost a balancing act. We charge them what it costs us on the daily running of expenditure not on capital charges. For example, the last repairs was something like £½m.

HON MAJOR R J PELIZA:

I have one more question, Mr Chairman, this is my usual yearly one, hopefully I think one day I may succeed. Sub-head 17, John Mackintosh Hall. Can the Minister say if we will be able at the next elections to use this particular venue?

MR SPEAKER:

I am afraid you are wrong, this is not the Hall, this is the John Mackintosh Home.

HON MAJOR R J PELIZA:

I am sorry, my apologies.

HON W T SCOTT:

Mr Chairman, I have one on Family Allowances. I expressed during the course of the Second Reading of the Finance Bill, our dissatisfaction that after something like two years families which have in excess of one child seem not to be as well off insofar as allowances are concerned with families that have just one child and one would have thought that over the last years since the tax allowance for the first child was waived where the family allowance for second and subsequent children remained the same, I would have hoped that Government would commensurately have raised that family allowance for the second and the third child. Other than the reply we had from the Hon Financial and Development Secretary purely on costs, on the morality and the social aspects of it I would like to hear in fact what the Hon Member responsible might have to say on this?

HON MAJOR F J DELLIPIANI:

Mr Chairman, first of all I would point out to the Hon Member that the Family Allowance received is tax free, it is not taxed. Secondly, if he looks at the sum it is £½m, it is quite a substantial sum. I remember when my Hon Colleague, the Minister for Economic Development, when he became Minister for Labour the fund then was £30,000 a year, now it is £½m. There has been over the years quite a substantial increase in Family Allowances, it is a question I do not think myself personally that we can afford to increase at this stage in the financial situation we find ourselves. I agree with the point that you have raised, I am just restricted with the money that I think I can afford.

HON W T SCOTT:

Does the Minister not agree, in fact, that there is discrimination practised?

HON MAJOR F J DELLIPIANI:

I do not agree that there is discrimination, what I agree with you is that I would like to do it because it would be something fantastic but I cannot afford to do it and as I cannot afford to do it I face reality and I just do not do it but I would like to do it. I agree with him completely.

Other Charges was agreed to.

Head 11 - Labour and Social Security was agreed to.

Head 12 - Lands and Surveys was agreed to.

Head 13 - Law Officers - Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure

HON P J ISOLA:

Mr Chairman, Law Revision is £200,000 and it is due to be spent this year. Does that mean that it will be ready, the law revision, printed and all?

HON ATTORNEY-GENERAL:

Mr Chairman, the tenderer has been selected, I cannot say that the contract is concluded but the tenderer has been selected and we are in the process of ironing out the details. The Law Commissioner is intent on keeping to his time-table, he relies on support from our part to help him do that but as far as he is concerned he is working to that time-table.

Special Expenditure was agreed to.

Head 13 - Law Offices was agreed to.

Head 14 - Medical and Health Services - Personal Emoluments

HON G T RESTANO:

Does the Minister have any comments to make at this stage now on the comments that I made about the phasing out of private consultations?

HON J B PEREZ:

Mr Chairman, I would merely reiterate what I said in the last House of Assembly last month and that is that the question of private practice is a matter which is governed by the terms and conditions of employment of the consultants and they are on the same basis as they are in the United Kingdom, that is the information I have and there really is not much that I can do except to ensure that there is no abuse of the terms of the conditions which are imposed on consultants who carry out private practice. Let me just reiterate that in the main, private consultations are only permitted once a week and that the earnings of the consultants must not exceed 10% of their salary. Not only that but the consultants under the terms of conditions of employment have to submit annual accounts to the Controlling Officer of the Department who would, if he is dissatisfied with a particular return or if it has to come to his attention that a particular consultant is in fact abusing the right to carry out private practice or is in fact in conflict with his duty to public patients, then the matter would obviously be taken up with the Establishment Officer.

HON G T RESTANO:

I ask, Mr Chairman, because I notice that Appendix 'H' of the Estimates, Salary Grades and Scales, page 126, that for example the Director of Medical and Health Services is in brackets put (without private practice). Is this the new policy of the Government with new consultants?

HON J B PEREZ:

I do not honestly think that that should have been put there, this occurred two years ago when the Hon Mr Scott brought it to my attention, that should not be there (without private practice). I think the Hon Mr Scott raised it two years ago. I apologise for that error, it is not my responsibility actually.

HON P J ISOLA:

There is a lot of supernumerary staff, did the Minister explain this in his budget speech?

HON J B PEREZ:

Yes, I think I did but for the benefit of the Hon Member, we said we were engaging in a training programme in order to be able to localise posts and we have taken on young people, they are going to do a year's training here and then we are going to send them to UK and within two years when they complete their course they will come back and take the posts which are at the moment taken up by the expatriates. The idea is to localise and, of course, to give employment.

Personal Emoluments was agreed to.

Other Charges

HON G T RESTANO:

Is the Minister satisfied that under Sub-head 8, Drugs, Dressings and Pharmaceutical Sundries, the department is getting value for money?

HON J B PEREZ:

Yes, I think in the main we are, Mr Chairman.

HON G T RESTANO:

Does the department do shopping around to see whether they can buy things cheaper?

HON J B PEREZ:

Most of the items are purchased by tender and on other occasions we buy direct from manufacturers in some cases because that is not the GPMS vote. There are certain items, for example, special bandages which we may require which we have to buy from a particular manufacturer and if there is a local agent we would go to the local agent here, if there is no local agent we buy direct from the United Kingdom but we try where we can to avoid the middle man.

HON G T RESTANO:

And on Sub-head 9, Group Practice Medical Scheme - Medicines. I remember the Minister's predecessor always made great play in this House saying that in Gibraltar there were more items per prescription than he felt was necessary or in accordance with what was done in the United Kingdom. Is this still the practice or has there been any change?

HON J B PEREZ:

I think in the last survey that was carried out by the department, the comparison that was made, Mr Chairman, with the United Kingdom, we are more or less at par at the moment of items per prescription and as far as the average is concerned we are more or less at par with the UK. I think the survey was carried out a few months ago. The point I would like to make as far as this particular vote is concerned is it is indeed a very difficult vote to control because one does not know.

Other Charges was agreed to.

Special Expenditure

HON G T RESTANO:

Perhaps the Minister will say what is the new equipment that is being purchased?

HON J B PEREZ:

I am surprised, Mr Chairman, the Hon Member has not said that he welcomes the £40,000. I will just give you, Mr Chairman, the main items, the main ones, that is an incubator, an electro-surgical table, a pantogram for the X-ray department, a resuscitator, pace-makers, eye instruments and main general instruments. With the coming of the new Director we have quite a large shopping list and I would take this opportunity, if I may, Mr Chairman, to say in public that if there are private organisations, people who make donations during the year, I would urge them to liaise with us and buy us things that we really need and not merely to go ahead and make a donation of a particular item which sometimes we do not really need. The only problem is that when you are given something free of charge you must be grateful and you cannot say no, but I take this opportunity to make the plea to private firms or organisations who wish to make donations to contact the

Administrator of the Department or the Director and we will give them a shopping list of the items that we require from, say, £1 to up to £100,000.

HON G T RESTANO:

I notice, Mr Chairman, that the next three sub-heads are all re-votes. Can the Minister say why if there was a requirement for a van last year why was it not purchased last year and why was the PMBX not installed?

HON J B PEREZ:

Mr Chairman, as far as the first one is concerned Sub-head 81, Disinfection Plant, certain works are in progress, they had to be carried out by the Public Works Department and either they have just finished or they are shortly to be finished but the plant has been ordered already but has not been paid for. As far as the PMBX is concerned, that will have to depend again on another department to carry out the purchase for us. As far as the van is concerned I am told the van has not yet arrived but it was in fact ordered.

Special Expenditure was agreed to.

Head 14 - Medical and Health Services was agreed to.

Head 15 - Police - Personal Emoluments

HON A T LODDO:

Mr Chairman, I notice here under Personal Emoluments that the overtime in consonance with current Government thinking this year, is down but at the same time allowances are considerably up. Perhaps the Minister can explain what are we actually saving at the end of the day?

HON ATTORNEY-GENERAL:

Mr Chairman, what we are saving is a matter of calculation but I can say why the overtime is down and why the allowances are up which I think is what the Hon Member may wish to hear. The overtime has but cut, as the Hon Member mentioned, in keeping with the concern to reduce the level of overtime. It may possibly be further curtailed. It may be difficult for the time being to keep within this limit but nevertheless it may be further curtailed when fourteen newly recruited recruits complete their training and are able to come into

post, that may have the effect of further reducing overtime. So far as the increase in allowances is concerned this includes two elements. First of all, it is the estimate of the rent allowance payable to police officers under the general conditions of their service and it includes an element of £48,750 for refund of income tax to the Income Tax Department because of course if one gets free or subsidised accommodation, for tax purposes a notional amount is attributed to that and under the terms of the police conditions of service that has to be borne by the Government so it is really a book transfer.

HON P J ISOLA:

Can I ask the cost of maintaining the police at Four Corners for a year?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The cost per month is £27,700 then on top of that there is overtime as well, the annual cost is about £2m.

HON MAJOR R J PELIZA:

Is that over and above the £750,000?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON P J ISOLA:

As a matter of interest, why does the Police cost double the Customs, is it more people there or better rates of pay or what?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There are five Police Sergeants and twenty-six Constables so it is slightly in excess. They have also got a rent allowance per month, that is £1,300 which we do not get for the Customs Officers. Their terms and conditions of service are very different from Customs Officers.

HON P J ISOLA:

Can I ask the Attorney-General, do they have instructions not to allow armed people to cross the border?

HON ATTORNEY-GENERAL:

I am sure they do.

HON P J ISOLA:

Can I ask the Hon and Learned Attorney-General to ensure that that is the case because my information is that armed men do cross the border, they happen to be in uniform?

HON ATTORNEY-GENERAL:

Mr Chairman, could the Hon and Learned Leader of the Opposition say which way?

HON P J ISOLA:

Armed men into Gibraltar, in other words, I am talking of Customs Officers and Spanish Police Officers who are armed and who walk across and seem to enjoy a cup of tea and so forth and we are a little concerned about that. We think it is wrong, in principle.

HON ATTORNEY-GENERAL:

I will take note of that.

HON W T SCOTT:

Mr Chairman, might I ask since the Estimates were prepared on the establishment, what establishment there is within the Police Department, what has it been raised to from 215?

HON ATTORNEY-GENERAL:

The current establishment is 215 and I think I mentioned before fourteen recruits.

HON W T SCOTT:

Have they already been taken?

HON ATTORNEY-GENERAL:

If the Hon Member will bear with me I will just check my facts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Of the fourteen who are being trained some are to replace people who have retired or left the service. It will be plus five.

Personal Emoluments was agreed to.

Other Charges

HON A T LODDO:

Mr Chairman, I notice quite an increase in the General and Office Expenses. Could the Hon Attorney-General please explain? It works out at about 25% increase.

HON ATTORNEY-GENERAL:

Mr Chairman, it is due to various factors. I think the main factor possibly being the 1982 pay review which affected the industrial cleaners, it takes a major slice of that vote. It also included a new item of £5,000 for printing under the arrangement whereby printing costs will now be dealt by particular departments whereas formerly this was done as a sub-head within the General Division of the Government Secretariat. I think also there was an element of the provision of a new telex facility which was necessitated by the decentralisation of an old joint user telex system which was being used in conjunction with the Secretariat, I think those are the major points.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, Mr Chairman, if I may, I should have mentioned this earlier and I apologise for not doing so, and that is that one will find either in General Office Expenses or in a separate item in some departments, printing, and the reason for this is that there was a recommendation that printing should be dealt with separately by departments so that there is provision now in each departmental Head for printing. When you come to Secretariat which used to be the goat bag where all the printing was paid from you will find the vote has come down.

HON A T LODDO:

Mr Chairman, I notice the Clothing and Equipment is going down. How can we explain that?

HON ATTORNEY-GENERAL:

All I can say is that this is one particular area in which economies are being studied and it would seem that not only are they being studied but they have been studied. I think it is simply a deliberate reduction in the amount being spent on clothing.

HON W T SCOTT:

Mr Chairman, since the police have taken on a total of fourteen recruits, should we expect a rise on training expenses?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am not quite sure of the logic in that question.

HON W T SCOTT:

If I may explain, I have assumed that the training expenses that appear there are attributable to training of young recruits.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This would be done by the training section and I think that through the year we get quite a number of recruit courses being run. I think the fact that they are taking on an extra fourteen now would not necessarily increase it.

HON ATTORNEY-GENERAL:

Perhaps if I may explain a little further. This particular, item 9 I think we are speaking to, really is concerned with specialised training. I should have made this clear at once, for example, VIP protection training, fraud investigation course training and advanced CID course training, it is specialised training.

HON A T LODDO:

Mr Chairman, on Sub-head 10. I notice a considerable drop of £4,500 under Traffic Control. I have noticed what I can only suspect is some form of monitoring of traffic at the fountain at Waterport. Is it the intention to provide more traffic

lights in Gibraltar and if that is the case how can we be cutting down on traffic control?

HON ATTORNEY-GENERAL:

I think the basis for the reduction is that it is understood that the responsibility for the provision of traffic lighting and sign painting will be taken over by the Public Works Department.

HON A T LODDO:

On 11. What exactly are investigation expenses?

HON ATTORNEY-GENERAL:

Well, they cover a variety of things, Mr Chairman, but, for example, drugs would involve drug analysis, the services of the Metropolitan Police Laboratory in London and that type of thing or it may involve sending a police officer to England to interview somebody. It could be a variety of matters.

HON A T LODDO:

Mr Chairman, has the police totally given up the idea of sending these samples, as has been the case previously, by hand of pilot?

HON ATTORNEY-GENERAL:

This matter came up in the House recently, Mr Chairman, and I find myself in the position of not quite recalling what we discussed at the time but the problem, I think, is this, that it is, especially in major matters, necessary to trace continuity of an exhibit so if you take an exhibit that has to be tested in the UK, it is important to be able to say that this was in police custody from point A to point B and from point B back to point A and I think that is the reason why, by and large, Police Officers are used to take these things. As I recall we did discuss in the House or debate in the House the possibility of doing more within Gibraltar itself but I think there will be some things which will need to be done overseas at least in the foreseeable future.

HON P J ISOLA:

Mr Chairman, very hard to find under what I can ask this, but under investigation expenses can I ask does this cover the expenses of investigating the deposit of refuse on the street by people? The reason why I ask this, Mr Chairman, is that sometime ago we had a great Keep Gibraltar Tidy campaign and we have passed legislation increasing fines and goodness knows what we did, and we were going to see a tidy Gibraltar and a clean city. I know that there are other reasons at the moment but it was basically the thing and I know that for about two or three months policemen were knocking at doors and telling householders: "You have put this after 10 o'clock or before 10 o'clock", and we had a few prosecutions and people were fined £25. Then like everything else that happens in Gibraltar they seem to have lost interest in the matter and as a result it is quite common now to see rubbish out, forgetting the present trouble, quite apart from the present trouble, rubbish out in all sorts of dirty bags, in boxes and one sees policemen walking past them without a care in the world. Do they accept responsibility in this field? I know we had a bit of trouble with dogs going around without muzzles and I think we were told there it was up to John citizen to make a complaint or collect the dog because we were all policemen as well but, Mr Chairman, on rubbish there was a law passed making penalties and here we have got the Tourist Minister and everybody else, we are all talking about the state of Gibraltar and the enforcement agency seems to be quite unconcerned about it. Do they recognise it as a responsibility of theirs or do they think that is the responsibility of the Public Health Department or the responsibility of John Citizen or the responsibility of somebody else, because it is very clear that there are no longer any prosecutions for rubbish and when I say there are no longer, I am not talking of the immediate past I am talking now for quite some time.

HON ATTORNEY-GENERAL:

The Police, of course, have a general responsibility for enforcing all laws, as the Hon and Learned Member knows as well if not better than I do, even if it may be the case that there are other agencies which also have a responsibility and I recall, Mr Chairman, that this matter was raised I think by the Hon and Learned Leader of the Opposition in the House and he expressed his concern at a recent meeting and I am confident that I raised this matter with the Commissioner of Police but I will most certainly undertake to raise it again and to remind him that there is this continuing concern. Without in any way getting away from that, I am not trying to water down

what I am saying, but just by way of a further explanation or a further point, of course the Police do have various priorities and obviously some things would be dealt before others but most certainly I will raise the matter with him again and remind him of the Hon and Learned Leader of the Opposition's continuing concern.

HON P J ISOLA:

I am grateful for that because I am not suggesting that the Police should have a special squad doing this but what I am suggesting is that the man who is on duty in Main Street, for example, and walking up and down so that people can see law and order is there, if he sees a little rubbish dump I think he might do something about it, I would have thought.

HON A T LODDO:

Mr Chairman, I notice a big drop under Sub-head 13, Maintenance of Dog Section. Perhaps the Hon Attorney-General could explain that?

HON ATTORNEY-GENERAL:

There is in fact a decrease from last year but it is considered adequate. The maintenance of the Dog Section includes a number of items, I could list them all. They include such things as dog food, biscuits, worm tablets, I would like to make one particular point which I think the Hon Member will be interested in, they also include "good boy" bones. I did want to make that last point.

HON A T LODDO:

Mr Chairman, I can immediately say that I do not supply "good boy" bones so I have no interest. What I meant was are there less dogs and is that the reason for the big drop?

MR SPEAKER:

They may have gone on a diet for all we know.

HON ATTORNEY-GENERAL:

There is one dog and it is a Labrador and I think its special skill is detecting drugs.

HON G T RESTANG:

I notice that the Telephone Service has risen sharply. It has gone up by 46%, I notice from the figures that I have, that seems to be rather high. Can an explanation be given?

HON ATTORNEY-GENERAL:

The reason for that, Mr Chairman, is that the increase was due to the introduction of the international direct dialling facilities plus the charging for local calls.

HON W T SCOTT:

Mr Chairman, I would like to ask on Sub-head 19, the very sharp drop on the maintenance of Police Stations and Posts.

HON ATTORNEY-GENERAL:

Basically this is an economising measure and as the Hon Member has pointed out there is a sharp drop to cover the costs of day-to-day maintenance and upkeep of Police Station and the result is going to be that there are going to have to be economies made.

HON A T LODDO:

Mr Chairman, if the Police can achieve this kind of economy with one more Police Post, namely, the frontier, could the same keenness be shown possibly in the Revenue Department and other departments to bring down the cost of office maintenance?

HON ATTORNEY-GENERAL:

Sir, I am not quite sure I understand the last part of the question.

Other Charges was agreed to.

Special Expenditure

HON W T SCOTT:

Mr Chairman, Sub-head 82. Can I ask the Government how many ambulances are there and for how long have we had the existing ambulances?

HON ATTORNEY-GENERAL:

If I can answer the last part of the question first. This item is to replace two ambulances both of which are seven years old and they are no longer cost effective. I think there are only two ambulances altogether anyway but I will check.

HON W T SCOTT:

If both are seven years old I seem to have seen a very new one going around.

HON ATTORNEY-GENERAL:

Mr Chairman, may I look into the matter and provide the information to the Hon Member but the particular vote for this item is to replace two seven years old ambulances. I believe there are in fact other ambulances but I will have to find how many there are and inform the Hon Member.

HON MAJOR R J PELIZA:

Mr Chairman, if I may contribute here, I have just seen this morning one new one, a new Volkswagen.

MR SPEAKER:

You have been told that you are going to be given the information in due course.

HON ATTORNEY-GENERAL:

Mr Chairman, I am not saying that there are only two ambulances all I am saying is that this item is to replace two seven years old ambulances.

HON CHIEF MINISTER:

One new one was purchased last year and now they propose to substitute the two old ones for a new one.

Special Expenditure was agreed to.

Head 16 - Port - Personal Emoluments was agreed to.

Other Charges

HON MAJOR R J PELIZA:

Mr Chairman, if nobody has anything before Sub-head 8. I am just referring to a question that I asked to the Minister for Economic Development and Port. It was to do with a fence, if he remembers, which was lying on the ground, it goes towards the Mole on the left hand side and he said he was going to replace that by a new fence. Well, it has not been replaced and I am not suggesting that it could be done overnight but could what is there now be totally removed, I think it would look tidier if that old fence which is not serving any purpose was disposed of.

HON A J CANEPA:

Mr Chairman, the thing is that part of the obligation to make good the fence lies in connection with the new Power Station, then the rest of it will be made good under the minor works departmental vote for which I think there is provision in the Improvement and Development Fund.

HON MAJOR R J PELIZA:

What I am suggesting is that if it is going to be some time before the new fence replaces the old one could the Minister see a way of getting rid particularly of that part of the fence which is lying flat on the ground serving no purpose whatsoever but is really an eyesore particularly for people travelling along the Mole?

HON A J CANEPA:

I will ask the Captain of the Port to look into that tomorrow, Mr Chairman.

MR SPEAKER:

Any other matters under Other Charges?

HON G T RESTANO:

I have one under Sub-head 12. Has the Government made an application to the Admiralty to have Admiralty land in the Port handed over to the Government?

HON A J CANEPA:

There are discussions going on currently on the question of the transfer of the North Mole.

HON A J HAYNES:

Is there any extra expenditure envisaged as a result of the project to make a causeway at the Viaduct?

HON A J CANEPA:

Not here, it would not be here, it is not recurrent.

Other Charges was agreed to.

Special Expenditure

HON A J CANEPA:

Mr Chairman, I have an emendment to move, it is an inclusion of a new item.

MR SPEAKER:

I think you should do it now and like that we will have Special Expenditure as it should be.

HON A J CANEPA:

I beg to move, Mr Chairman, the appropriation of £25,000 under a new Sub-head which would be Sub-head 83(N) and the Sub-head should read "Loan to Gibraltar Pilots Association" and the sum that should appear therefore in the first column for 1983/84 should be £25,000. The reason for this, Mr Chairman, is that Hon Members will see that under the revised estimates 1982/83 there is a figure of £25,000 which is as a result of supplementary appropriation that we made recently but because the terms of the loan agreement were not finalised before the end of the financial year the money has not been paid over and therefore there is a need to re-vote the money so really the amendment, what it purports to do, is to make provision under 1983/84 for the same loan that was the subject of some discussion at a recent meeting of the House. There will be, Mr Chairman, consequential amendments in the totals.

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

HON P J ISOLA:

Mr Chairman, we voted against this provision in the House and I won't address the House on it but we oppose this amendment on the same basis and for the same reasons that we opposed the original provision.

Mr Speaker then put the question in the terms of the Hon A J Canepa's amendment 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 J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A T Loddo
The Hon G T Restano
The Hon R J Wallace

The amendment was accordingly passed.

Special Expenditure was agreed to.

Head 17 - Post Office, Savings Bank and Philatelic Bureau - Personal Emoluments was agreed to.

Other Charges

HON MAJOR R J PELIZA:

Mr Chairman, I have three questions on this. I think two of them could come under Sub-head 2. The first one is in relation to the sales of Insurance Stamps and I think this is probably the best vote where I can raise it. I personally have had a number of complaints of the time it takes for employers to obtain these stamps. If it is under £100, I am told, it means queuing up but it is available, if it is more than £100 then to be able to get it they have to queue twice because that is the only way they can get it unless they give notice, and then they have to go the following day. This apparently is causing considerable inconvenience and I wonder if it would be possible for the Minister to find another way of giving better service in this respect because from the point of view of the employer it is quite costly to have someone just queuing up to buy national insurance stamps and, in fact, I wonder if the Minister could influence the Government perhaps in doing it the way they do it in the United Kingdom where that is paid at the same time with PAYE at the same time as the tax is deducted and this might be a saving all round?

HON H J ZAMMITT:

Mr Chairman, I have not received any complaints about this, in fact, I was inclined to believe entirely the opposite, that the services being rendered were quite adequate. The situation is nearly correct the way he has expressed it and that is to say that small amount of stamps, not necessarily under £100, any small amount can be collected as and when required at the counter but for large sums and let us be quite honest about this what really occurs is that an enormous number of big firms accumulate large sums of money at a particular time of the year, invariably January, to fill their cards up and then of course it is a mad rush. At that particular time then I will grant that it is unavoidable that there are delays but on the whole and I have looked at this quite closely because we amended this, we changed the system around possibly nine months ago or so and we have found that people need not necessarily have to come to the Post Office, they telephone and providing they know who people are, in a small place like this we either recognise the voice or the John Smith at the end of the line and say: "I want 500 stamps tomorrow morning" and the person at the counter will say: Right, they will be organised". However I will certainly

look into it and if there is a way of alleviating the situation I will be delighted to do so, Sir.

HON MAJOR R J PELIZA:

Would it be alright if, say, anything under £100 can be done as usual at the counter and anything over can go to the other office where apparently is where they go for ones that are more than £100.

HON H J ZAMMITT:

That is what we are doing, Sir.

HON MAJOR R J PELIZA:

But you have got to give one day's notice.

HON H J ZAMMITT:

Invariably one day but that is the standard rule. I have personally seen people going upstairs and saying "I want 300 stamps" and the Clerk says: "Well, hang on, I can do it", because he is doing nothing else at that particular time but if there is a queue there then of course all he can say is, "We will take the order and it will be supplied". I will certainly take up the question that the Hon Member has mentioned.

HON MAJOR R J PELIZA:

The other question was to do with the credit balances; very small credit balances in the Post Office Savings Bank where perhaps the person withdrawing the amount is not straightforward because it does not belong to him really but perhaps belongs, say, to a relation who dies and it is a very small sum £5, £8 and as the Minister knows and certainly I knew of one instance where the individual was told that he had to produce a death certificate of the real depositor and that cost him £3 and of course if you deduct £3 from £5 it is really a total loss. He tried to obtain the release of the money by obtaining certificates from the Undertaker, burial certificate which of course cost him nothing and this, I am afraid, was not accepted either. Since then I believe the Minister has been looking into it and perhaps he could tell the House what the rule is now because although obviously this applies to one individual who approached me I am sure

that there must be many other people who are in the same situation and who must have found the same difficulty and perhaps the Minister by making a statement now in reply to my question might well clear the air for all the others who are perhaps waiting on the queue.

HON H J ZAMMITT:

Mr Chairman, I cannot make a considered statement at this particular point in time. What I can tell the House and the Hon Member is that on receipt of his letter it was obvious that it appeared to be futile that for the collection of a small amount of money there should be such demand of exactitude but on checking out it has been established, Sir, that the Postmaster has the flexibility within the Post Office Savings Bank Ordinance, the flexibility to allow if he is satisfied we must be very careful because there have been instances where a wrong person, and I am going further than that, has collected money, he must be satisfied and again because of our size it is not all that difficult, that a simple burial certification will be sufficient and that is being arranged at the moment, it is purely mechanical but, again, Mr Chairman, had it not been for the Hon and Gallant Major this matter would not have come to my attention and I am glad it has because I have given instructions to the Post Office for the matter to be sorted out.

HON MAJOR R J PELIZA:

I am grateful to the Minister, perhaps I could tell the individual concerned and he can go round and collect his money and perhaps some publicity could be given to this because I am sure that other people must be wondering whether it is worthwhile calling for the money if they have met the same situation.

MR SPEAKER:

Do you have another matter to raise?

HON MAJOR R J PELIZA:

Yes, there is one more, Mr Chairman, and this is under Sub-head 5, Conveyance of Mails. Am I right in saying that the mail although really posted on Saturday morning and collected before the plane for Britain leaves our airport, is not delivered on that day and if that is so so could the Minister

explain why and could he do everything possible to try and see if that could be done?

HON H J ZAMMITT:

I do not understand the Hon Member. Is he saying that mail that we collect here on a Saturday morning is not despatched on the Saturday? Yes, that is so, Mr Chairman. An aircraft that now arrives on a Saturday because we did not have an aircraft until a few weeks ago on a Saturday, is received here on the Saturday it is not delivered until the Monday and it is purely a question, Mr Chairman, that if we did so it would be an enormous expense of having to pay overtime.

HON MAJOR R J PELIZA:

I think the Minister has misunderstood my question. What I said is mail actually posted in Gibraltar on a Saturday morning. That is not despatched, I understand by air to England on Saturday and could it be done?

HON H J ZAMMITT:

That is done, Sir. That is exactly what I was trying to clarify that our mail does go on a Saturday but we cannot deliver on a Saturday the in-coming mail. Our mail leaves on the day.

HON P J ISOLA:

I am glad to hear that from the Minister because I was at the Post Office last Saturday morning collecting my mail and I asked a sorter there whether any mail was going to England on that day and he told me no, it does on Sunday.

HON H J ZAMMITT:

This is why I am saying because we have only had a Saturday flight for the last three or four Saturdays, prior to that we had non-departure from Gibraltar on a Saturday.

HON P J ISOLA:

Is the Minister aware of a piece of paper that has been sent only ten days ago and I think all the people who have PO boxes had it and it has gone up in different places which gives latest posting time for airmail services to England

and it gives a latest posting time for Friday of 11 and then no posting time for Saturday and then Sunday. Saturday is left out. This is in a piece of paper or a notice that has been issued by the Post Office and I can assure the Minister it cannot be more than two weeks old, perhaps he will look into it because I have got a copy.

HON H J ZAMMITT:

I will certainly look into it, Mr Chairman. I can inform the Hon Member and the House that of course it would be impossible for the Post Office to despatch mail to England posted after a particular time on a Saturday morning.

Other Charges was agreed to.

(2) Philatelic Bureau - Personal Emoluments was agreed to.

Other Charges was agreed to.

Head 17 - Post Office, Savings Bank and Philatelic Bureau was agreed to.

Head 18 - Prison - Personal Emoluments

HON P J ISOLA:

Could I ask, as far as the prison service is concerned are they a disciplined force subject to the discipline, for example, the police is?

HON MAJOR F J DELLIPIANI:

Mr Chairman, I am not in a position to answer this because the question of discipline of the service does not come under me.

HON ATTORNEY-GENERAL:

Mr Chairman, I apologise from being absent from the Chamber when this was asked. The position regarding the prison force I think is correctly yes that they are, but I think that needs to be explained and broken down into two elements. Within the prison service itself the Superintendent has disciplinary powers over his officers but I think as a whole, as public officers, the prison warders or the prison officers are all accountable under the ordinary public service procedures on disciplinary matters. I do not know whether I have made

myself clear but what I am trying to say is in principle they all come under the general disciplinary control that applies throughout the public service and underneath that I think it is correct to say that inside the prison the Superintendent, obviously, would have authority over his officers to an extent which you would not normally come across a Government department and in that sense I would say yes they are a disciplined service.

HON P J ISOLA:

Can I then be told how it is that prison officers can black and refuse to put on their uniforms whilst on duty? I would imagine if that happened in the Police Force I do not know what would happen, there was really the purport of my question.

HON ATTORNEY-GENERAL:

I quite agree with the Hon Member it is a disciplinary matter and they have duties as disciplined officers to carry out and I think that they are in the same position as the police in this respect.

HON P J ISOLA:

In that case can I ask the Hon and Learned Attorney-General is it a fact that the report in today's Chronicle that they were in fact doing duty without having their uniforms on is correct? Without their full uniform, is that correct?

HON ATTORNEY-GENERAL:

I am not in a position to say as a matter of fact whether or not that is correct but it appears it would be correct, yes.

HON P J ISOLA:

So if that is so, what happens? I am an interested bystander, almost, because I can just imagine that if it is a disciplined force and they can do it, who knows, tomorrow we might find the police who have been told to check on rubbish piles deciding that they have got a dispute and not putting their uniforms on.

HON ATTORNEY-GENERAL:

If I can confine myself to the prison service, Mr Chairman, I am sure the situation will not be allowed to develop to that stage.

Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure

HON P J ISOLA:

I do not know whether it is tactful to ask a question here, Mr Chairman. There is a substantial increase in the vote but it does include, I notice, a re-vote. Is it that the security measures that were thought necessary were not taken last year and they are going to be taken this year? I notice it is a re-vote of £1,700 and nothing seems to have been done, or very little.

HON MAJOR F J DELLIPIANI:

The £1,700 we did not spend that time. Security measures is a continuing process of improvement. I would not like to give you the details of what we are doing, I will give it to you afterwards.

HON P J ISOLA:

The revised estimates shows an expenditure of £500, the approved estimates was £1,700 and the re-vote is £1,700, I presume the re-vote is only £1,200.

Special Expenditure was agreed to.

Head 18 - Prison was agreed to.

Head 19 - Public Works - Personal Emoluments

HON W T SCOTT:

Mr Chairman, I note there is a drop in establishment. The Personal Emoluments have gone up slightly and with the lack of development that there has been would the Government comment whether they would continue as a matter of policy

to employ so many professionals within that department where the output is not entirely out of their own control cannot be taken up by Government and the local community benefit from that work?

HON M K FEATHERSTONE:

Sir, if you look at the supernumerary staff the number of graduate engineers and technicians has decreased, this is because these gentlemen who were previously supernumerary have now gone into the permanent establishment taking the place of expatriates.

HON W T SCOTT:

But does the Government not consider that with the fall of development that there has been over the last few years that the situation has been reached where the output of these people is not reflected, the profession is not reflected through building, through general development and so forth and is this trend going to continue?

HON M K FEATHERSTONE:

I would say that over the period 1980/82 it was fully reflected. The actual 1982/83 period, there was less development actually done but my staff has got quite a lot of work prepared for any new development programme and this year the development fund is hoping to spend £10m which will get off the ground very quickly, in fact, I think there are four or five projects waiting to go out to tender as soon as this House has passed the money. This is work that they have been doing in the past year which has not been seen but is going to mean that the development programme in the next stage can get off the ground much more quickly than normally has occurred at times when a development scheme has been suggested and then it has taken eight, nine, twelve months before it actually starts to come to fruition.

HON W T SCOTT:

Mr Chairman, but since work and drawings that were prepared two, three or four years ago are now coming on stream what work is there for these professionals or presumably they would have normally prepared work last year for next year but the work that is going to be done this year and next year was prepared three or four years ago?

HON M K FEATHERSTONE:

They have, for example, the Gasworks site where they have done the drawings for the first phase, they can be getting prepared for the second phase, Engineer House they can be preparing that, there are many areas. I think they are reasonably occupied. There is always a certain analogy to a piece of elastic, a piece of elastic may have to expand to twelve inches in length when its normal length is four inches. You would not say at any time cut off one of the four inches and make it three because it is not being used because when you want it to expand to twelve inches it would not be able to do so. It is always an advantage to have, perhaps, at times a little bit of spare capacity so that it is there for the moment when you want to put it fully to work, specially with the difficulty of recruiting when you do need the people. We did see some six or seven years ago when we were pushing the development programme we were hampered very considerably because we could not recruit sometimes for a period of six to nine months.

HON W T SCOTT:

I am saying that, Mr Chairman, because I think it was last month we asked for a list of the consultancies that Government had been involved in and paid either directly or indirectly through the ODA for a number of years and it seems to me that there could be a situation where there is spare work capacity within the professionals in the department of PWD so that those consultancies could be met at a local level by the establishment because it seems to me, Mr Chairman, never in Gibraltar have we had so many professional people and never have we ever paid for so many consultancies.

HON M K FEATHERSTONE:

I take your point and I will look into it as far as possible future consultancies are concerned but sometimes the consultancy is on a higher level than the skills of the local people actually concerned.

HON W T SCOTT:

Yes, Mr Chairman, but on ODA funded projects where there are architects, chartered surveyors, quantity surveyors, chartered engineers, consultant engineers, all this work to a very great extent could be done by local people.

MR SPEAKER:

The point has been made. Any other matters on Personal Emoluments?

HON G T RESTANO:

Under Gratuities. I notice that there is a little mark there which I suppose means it is reserved. How can a gratuity be reserved?

HON M K FEATHERSTONE:

It simply means that we cannot spend it on anything other than gratuities.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It means that the Financial and Development Secretary does not put it back into the personal emoluments if a person does not go, it is merely a device to make sure that it goes on reserve.

HON P J ISOLA:

On the Public Works Department, Mr Chairman, I would advise the Financial and Development Secretary to put a lot of these stars in a lot of places.

HON W T SCOTT:

Since we are dealing, Mr Chairman, with a substantial number of professional people within that department, there is almost a 10% element of overtime. Would the Minister comment on that?

HON M K FEATHERSTONE:

Yes, Sir, much of this overtime is regular overtime in some of the lower grades where they are the PTO IV's, PTO III's supervising industrial staff. As you know industrial is geared to 39 hours a week, non-industrial staff is geared to 37 and therefore they have to stay on two hours to supervise the industrial staff so this is basically a fair measure of regular overtime.

HON W T SCOTT:

It is basically PTO III's and PTO IV's.

HON M K FEATHERSTONE:

Yes, it is only in the lower supervisory grades.

Personal Emoluments was agreed to.

Other Charges

HON W T SCOTT:

Mr Chairman, I see that between Sub-heads 2, 3 and 5, it seems to be very similar - General and Office Expenses, Office Furniture, Office Equipment. Can we have some explanation on that?

HON M K FEATHERSTONE:

The General and Office Expenses, Sir, basically takes in a small amount of incidental expenses, postage, but most of the money is cleaning of the offices and the actual cost of industrial operating printing machine, those are the General and Office Expenses. Office Furniture, I think, is self explanatory. Electricity and Water is self explanatory. Office Equipment and Drawing Office Materials - this basically is the hire of the photocopy machine that we have and then the printing paper and general materials and ammonia, polyester film and tracing sheets in the actual Drawing Office. The figure is a little higher this year because we expect to do a certain amount of extra work consonant on the fact that the City Plan is being produced this year.

HON W T SCOTT:

Presumably when the Minister talks of a photocopying machine and the hire of it he was talking about the drawings?

HON M K FEATHERSTONE:

No, this is an ordinary photocopier, this is Rank Xerox photocopy machine.

HON W T SCOTT:

The drawing photocopying machine is the property of the department, is it not?

HON M K FEATHERSTONE:

Yes.

HON W T SCOTT:

Mr Chairman, the very substantial drop in Unallocated Stores I presume is due to the explanation that the Minister, I think, gave us on supplementary estimates, I think, a month or two ago?

HON M K FEATHERSTONE:

Yes, Sir. As I said it does tend to go in cycles. If you look at the actual expenditure in 1981/82 it was only £4,000. We are hoping that cycle is going to repeat itself. This will be one of the years where we can contain the expenditure very much within the figure that we have estimated.

HON W T SCOTT:

I have asked this question in other budgets, Mr Chairman, Sub-head 7 the Lighterage and Landing Charges refers to the unallocated stores element and where we had lighterage and landing charges of £3,000 on a sum of £20,000, £3,800 on a sum of £93,000, now this coming year we have lighterage and landing charges of £3,500 on a stores element of £10,000, that is 35%. If you have to maintain yourself in a local business and pay 35% lighterage and landing charges you would not survive very long.

HON M K FEATHERSTONE:

No, Sir, with the greatest respect, the Hon Mr Scott has not read unallocated stores fully. If he reads the smaller print it says - "purchases, freight and other charges £430,000", and it is on that that we are paying £3,500 lighterage and landing but of course we are importing £430,000, we hope to issue £420,000 but the actual £3,500 refers to the total imports of £430,000.

HON W T SCOTT:

I am very well aware of that and I thank the Minister because this is the precise point I have brought up on other budgets because the cost of the purchases, the freight element and other charges on those purchases intended for other Heads which have rightly been passed over to the other Head, should not the pro rata element of lighterage and landing charges also be passed on to the other Heads?

HON M K FEATHERSTONE:

I think they are when the actual costing is worked out.

HON W T SCOTT:

Well, it is not reflected here.

HON M K FEATHERSTONE:

Yes, it would appear in the £420,000. If, for example, your goods of £430,000 are up-graded by £3,500 then of that £420,000 is what you actually give out plus the £3,500 in proportion.

HON W T SCOTT:

In which case we are left with £335,000 exclusively for Public Works.

HON M K FEATHERSTONE:

No, Sir, I do not agree with your assessment.

HON W T SCOTT:

On Sub-head 8, Mr Chairman. I see that the vote on Training of Apprentices and Trainees is also down, in fact it was down almost £20,000 between the approved and the revised and it is now even at a lower level for this coming year.

HON M K FEATHERSTONE:

Yes, Sir, the reasons for this are various. First of all, it is training of apprentices and trainees. We have less trainees left in the pipeline and so the amount being spent

on them is less and also the number of apprentices who are in their third and fourth year are also less than they were last year. We took ten apprentices last year, we are taking the same number this year. In the second year of apprenticeships there are twelve, in the third year there are only eight and I think in the fourth year there are fourteen. This has varied over the years and naturally as the older ones work through if the numbers that have come in to replace them have been less, and we did take less apprentices in the last three years than we had in the previous years, then, of course, the amount drops. The whole situation of apprentices is an interesting point. In one way we obviously want to do our share in offering opportunities for youth in giving apprenticeships but we are faced with a two-fold difficulty. Firstly, one does not want to take on really more apprentices than one can adequately cope with and we are at the moment taking on more than we cope with because the second point is when they finish their apprenticeship they automatically become craftsmen, this tends to inflate our labour force, firstly in numbers but, secondly, in proportions in which we are getting more and more craftsmen with less and less labourers to support them so we are getting a rather invidious position. However, we do feel that we must take on some apprentices and so we are holding it this year to ten the same as last year but the number of trainees is definitely down.

HON W T SCOTT:

I am sorry to hear that from the Minister and I would ask him to reconsider the decision of not taking over more trainees and apprentices in the light of the increasing unemployment situation in Gibraltar and the fact that a number of young men at apprentice scheme introduction time apply and very few of them although quite a substantial number of them pass their exams, very few of them subsequently get off with an apprenticeship.

Other Charges was agreed to.

The House recessed at 7.45 pm.

THURSDAY THE 21ST APRIL, 1983.

The House resumed at 10.35 a.m.

HON J B PEREZ:

Mr Chairman, before we begin with the next Head I would like to give some information which I undertook to provide to the House yesterday during Committee and this was under the Housing vote. I think it was the Hon Mr Scott who asked in connection with the staircase lighting. It was Sub-head 8 of Head 8 - Housing and the information I have is as follows that all post-1945 dwellings are charged a sum of 35p per week and pre-1945 dwellings are charged 20p per week in connection with staircase lighting and, furthermore, that we do in fact recoup the whole amount specified in the estimates, in other words, it is estimated that the electricity bill for the Housing Department in connection with staircase lighting for the coming year is £65,200. It is estimated that the figures that I have just given of 35p and 20p per week will in fact recoup the whole amount as specified in the Sub-head. The other information I undertook to provide was again under Head 8 - Housing. This was in connection with Sub-head 7, Maintenance of Government Housing. I think it was the Hon Gerald Restano who asked approximately the number of dwellings which the gang of men had rehabilitated in the year and the answer to that is that a total of thirty dwellings were rehabilitated from June to December of last year.

Head 20, Public Works Annually Recurrent -
Beaches

HON W T SCOTT:

Mr Chairman, before we get on to the particular Sub-Heads, I wonder if I might crave your indulgence and make a number of general comments on this Head because it seems to me that since, I think it was about two years ago, there was an appointment of a second Deputy Director insofar as development was concerned and it was I think the last stage of the division of the PWD into two distinct sections. I think it followed very much on the lines of the Committee of Inquiry and I would have hoped to have seen by now a change in the manner of presentation of Head 19 and Head 20 because if one considers that Head 20 in fact has a certain large element of the establishment which is not shown in that Head, it is shown in Head 19 and all Sub-heads of Head 20 or at least the different sections; beaches, maintenance of buildings, emergency services and so forth, all of that, Mr Chairman, have a PTO section and a works supervisor element within that and I

wonder in fact in the first instance what the Minister would comment on.

HON M K FEATHERSTONE:

I don't quite see the thrust of the Hon Mr Scott's argument. The position has always been and maintains itself at the moment that the non-industrial staff come under Head 19 and the industrial staff and the Other Charges appertaining to such a vote come under Head 20. I cannot see that there is any specific gain in putting the non-industrial staff who are specifically dealing with Head 20 in Head 20, it is just a format that has grown up over many years, I cannot see basically whether any change would serve any useful purpose.

HON W T SCOTT:

Only insofar as, Mr Chairman, the inherent cost of maintenance of buildings, the establishment cost of that is included if one looks at page 69 under (30), (31), (32), (33) and (34). Sewers, exactly the same, Beaches, Cleansing, Gardens, Upper Rock and Cemeteries and what I am driving at, Mr Chairman, is that the cost of maintaining gardens, for example, in Subhead 10 of £176,500 is not the cost of maintaining that, it is commensurately higher.

HON M K FEATHERSTONE:

Yes, Sir, I can see the drift of the Hon Mr Scott's thinking. However, it would be very complicated because we have a Director of Public Works and you would have to share his salary out amongst every department, it would be very difficult to say that he spends 5% of his daily effort on thinking about beaches and 7½% on maintenance of buildings and what have you, the same with the Deputy Director and even on lower grades you do have a high PTO who is in charge of, perhaps, four sections, it is difficult to say how much time he spends on each section, how you would divide his salary. I think it would be so complicated that really the answer you will get will not serve much purpose.

HON W T SCOTT:

I accept that, Mr Chairman, and obviously I think the Minister is trying to drive it to a ridiculous point, with respect, but there is a point in that his department is divided into two very clear and distinct sections and I wondered on that, in fact, this was one of the recommendations, if I remember correctly, of the Committee of Inquiry.

HON M K FEATHERSTONE:

Not exactly.

MR SPEAKER:

In any event let us go to beaches now.

HON G T RESTANO:

When does the official bathing season commence?

HON M K FEATHERSTONE:

May the 1st, Sir.

HON G T RESTANO:

When does Government propose employing lifeguards?

HON M K FEATHERSTONE:

At the beginning of the period when the school start their half-day holidays, I think it is middle of June.

HON G T RESTANO:

Is the Minister not concerned that there would be a month and a half without any lifeguards on the beaches? Does he not consider that this is not a good thing?

HON M K FEATHERSTONE:

This has been done before, Sir, we cannot have lifeguards all the time because we haven't got the money for it and furthermore it is felt that the lifeguards are, firstly, more required during the period when a lot of youngsters go to the beach and, secondly, it is the policy basically to employ returning students, Gibraltar students in the main, as the lifeguards and they would not be available at earlier times otherwise.

HON G T RESTANO:

First of all, Mr Chairman, I don't think that the principle of two wrongs being a right is the policy to be adopted, not because it has been done before is it necessarily a good thing. I would have thought that, fair enough, employing returning students from the end of June or what have you but, surely, with the high unemployment figures that we have today it shouldn't be

too difficult to employ a few people for just a month and a half on that condition.

HON M K FEATHERSTONE:

Well, Sir, I don't think we have the money for it.

Beaches was agreed to.

Maintenance of Buildings

HON W T SCOTT:

Before we get on to that Sub-head, Mr Chairman, I think a few days ago the Minister told us when he was dealing with excessive overtime in the cleansing and rubbish collection section, he did tell us that the department employed 900 people. If one deducts 162 from 900 and we are left with 738, am I correct in assuming that the industrials involved within Head 20 is 738?

HON M K FEATHERSTONE:

No, Sir, it is 900 industrials plus all the non-industrials.

MR SPEAKER:

We are now on Maintenance of Buildings.

HON A J HAYNES:

Under Sub-head 3 - Housing. Can the Minister give us any indication as to which houses he is proposing to repair in this forthcoming year?

HON M K FEATHERSTONE:

No, Sir, not at the moment but I would like to make a little statement on the maintenance of buildings, etc. We have this year looked very severely at the question of maintenance of buildings. I have convinced my Colleagues that over the years the stock of buildings belonging to Government is increasing with the development that we are putting up, in fact, in the last year the stock has increased by some £8m or £9m and I have convinced them that the amount spent on maintenance has to be looked at very carefully and increased wherever possible to maintain the new stock as well as the old stock, of course, in as good a condition as possible. I am happy to say, Sir, that firstly as far as youngsters are concerned we are taking on an extra ten boy labourers this year. Government is putting out Section 23 notices on the private sector and we feel that it is a

little unfair asking the private sector to paint up their properties when certain Government properties are not looking too pristine so we are taking on six extra painters this year and we hope to push ahead with our painting programme.

HON A J HAYNES:

Mr Chairman, am I going to get an answer?

MR SPEAKER:

You are getting an answer and if you have any further questions to ask you will be entitled to do so. Will you please continue?

HON M K FEATHERSTONE:

We are also taking on a small group of specialised workmen whose basic jobs will be to look after the hospital and the two Comprehensive Schools so that the maintenance that we hope to do this year should be greater than last year to the extent of the extra people employed. It is very invidious at this stage in any proceedings to say exactly which houses we are going to deal with. Through the year the situation varies all the time but we may get a sudden storm and certain houses which hitherto had been considered reasonably good suddenly become in such a condition that we have to deal with them on an emergency basis. I know the areas that the Hon Mr Haynes is very worried about, we have got those programmed but I cannot promise when the programme will be done and I cannot promise that they will be done should something more vital turn up in the meantime.

HON A J HAYNES:

Mr Chairman, as I understand it that is a load of bunkum, with all due respect. Last year we were told that some of the money was for specific projects and the rest of it was for emergencies. Is that the case this year or is the whole lot just for any eventuality and if this is so why the detailed figure? Why not a token sum if it is going to be for an emergency?

HON M K FEATHERSTONE:

Could you repeat that please, Sir, I was reading something that had just been passed to me?

HON A J HAYNES:

Mr Chairman, is the Minister telling us that this sum of

£1.4m is not specified. . . .

MR SPEAKER:

Not quantified, in other words, if you do not know what work you are going to do how you know you are going to spend £1,445,000.

HON M K FEATHERSTONE:

Let me explain to the Hon Member how we work our figures. We work it starting from the premise that we have a certain number of men engaged in maintenance, the total number of men being known, their amount of salaries is known. We also know the normal breakdown of any job as regards materials to salaries, the proportion is usually 70% in wages and 30% in materials. If you put those two together you get a figure which gives you the initial guidelines of the figure that you actually put into the estimates. On top of that we have some extra figures which are put in which allow for such items as allowances, height money, job price contracts, efficiency bonus, works that are done by direct order or tender and the whole total gives us the figures that we put in the estimates. As I said, it is invidious to quantify at this stage any particular items because a great deal of the maintenance work are requisitions which come in on a daily basis from householders and we are receiving, Sir, something like 12,000 requisitions a year and these requisitions vary from a blocked sink to changing a toilet or a whole stockpipe in a block which needs to be changed. They are jobs which vary from £10 to perhaps £250 so it is impossible at this stage to say with any absolute certainty: "This is what we are going to do in the year". What we do say is that we have these number of men, they will be gainfully employed, as far as we possibly can so many men will be put on absolute maintenance, so many men will be put on day-to-day maintenance, so many men will be put on public buildings, etc but there must be flexibility. If we had a tremendous spate of day-to-day maintenance, house complaints etc., we have to move extra men into that sort of work because we cannot leave the public with their houses unattended and so it is invidious to say chapter and verse today, this is what we are going to do in the year, we can only give broad outlines and speak with a rather broadbrush phraseology.

MR SPEAKER:

We must not go into the general principles. We are not going to debate. What are you asking?

HON A J HAYNES:

I require specific information as to whether or not it is proposed to re-modernise or repair Hargraves and Gavino's Dwellings?

HON M K FEATHERSTONE:

I am not prepared to give that information now, Sir, if it can be done it will be done, if it cannot be done it won't be done.

HON G T RESTANO:

Mr Chairman, may I remind the Minister that in February of this year I did ask what the painting programme would be and he said to me that: "The programme for the painting of Crown properties including Government buildings is now in the process of being prepared for work due to commence in April 1983," and when I asked whether he was in a position to inform the House of the details of the programme he said "When the Government has voted the money and during the budget I hope to give some details". Could he not keep to those assurances?

HON M K FEATHERSTONE:

Well, the details I have given, Sir, is that we have increased the painting force by six men. This should give us greater painting opportunities. I do have rough schedules of which areas are going to be done. I am willing to show them to the Honourable Mr Restano. I don't have them to hand but again I must say that we cannot specifically keep to these schedules because other areas may come up and take priority.

On a vote being taken on Maintenance of Buildings all Members voted in favour except the Hon A J Haynes who voted against.

Emergency Services and Stores

HON W T SCOTT:

Mr Speaker, can we generally with this subhead and all other subheads have, not necessarily now but in the not too distant future, the necessary information on wages, overtime and allowances on each of the subheads which I am sure the Minister has.

HON M K FEATHERSTONE:

I will do my best to provide it to the Honourable Mr Scott. Perhaps the Honourable the Financial Secretary will give me an extra Clerical Assistant to do all this work which is required.

HON MAJOR R J PELIZA:

Can the Minister state how many night emergencies calls there are over a year and how much they cost on average?

HON M K FEATHERSTONE:

I think we get something like 3,000 calls of which 1,000 are at weekends and 2,000 within the general week.

HON MAJOR R J PELIZA:

I wonder if the Minister could say how much it costs in the weekends and how much they cost in week days and let me have it.

HON M K FEATHERSTONE:

We have investigated what it would cost if it was done by a private contractor and it was considerably more. I think our average costs runs between £14 and £25.

Emergency Service and Stores was agreed to.

Gardens

HON A T LODDO:

Could I ask the Minister, in this sum which we will be voting, is there any provision for a possible traffic accident within Alameda Gardens seeing more and more vehicles are driving through it?

HON M K FEATHERSTONE:

I know what the Honourable Member is getting at but I don't think this is specifically to do with Gardens.

HON A J HAYNES:

Mr Speaker, the area beyond Devil's Gap Steps, is the Minister responsible for the cleaning of that area

as part of the Upper Rock?

HON M K FEATHERSTONE:

The Upper Rock is basically all Government property and therefore I would assume that it would come into our area, yes.

HON A J HAYNES:

I should assume that it indicates that it is meant to be theirs and that they haven't done anything about it and certainly if he goes there he will see that nothing has been done about it. Is the Minister satisfied that the optimum efficiency is obtained in the upkeep of gardens and paths? For instance, Mr Chairman, has the Minister assured himself that the water supply and the pressure of that water supply to these areas is adequate?

HON M K FEATHERSTONE:

Most of the water that is supplied is obtained from a well at North Front and I think that that well is quite adequate. In fact, I must say that last year I think the Hon Major Peliza complimented us on the area outside Trafalgar Hill and I think that most of the areas look quite reasonable.

HON A J HAYNES:

I personally commend the Trafalgar Hill area but the point I was trying to make, Mr Chairman, is that for instance in the Court Garden the water pressure is very poor.

MR SPEAKER:

I don't think the Minister is entitled to concern himself with water pressure. You are quite entitled to ask whether he would take the necessary steps to see that it is adequate.

HON A J HAYNES:

I agree. It is a small point but it is one that I am told has been pending for about eighteen months, perhaps the Minister will settle this.

Gardens was agreed to.

General

HON A J HAYNES:

On Subhead 14. Does this coastal protection include the Sand Quarry proposals to dig out a wedge at the top of the sand pile to act as a catchment area for falling rocks onto the East side?

HON M K FEATHERSTONE:

No, Sir.

HON A J HAYNES:

Is there any provision of that nature?

HON M K FEATHERSTONE:

That doesn't come into this head at all. This is coastal and Rock Safety protection.

HON A J HAYNES:

What head would that come under?

MR SPEAKER:

Look at your Estimates and so you will find out. That is information that you can easily get for yourself.

HON M K FEATHERSTONE:

Well when the Sand Quarry operation starts working at the upper area where it was originally intended that the quarrying would be done, this in itself will provide a safety against specific rockfalls from the Upper Rock.

HON A J HAYNES:

So there is no interim provision for that?

HON M K FEATHERSTONE:

No, unless there are specific rocks at the very top which are obviously in danger of moving then they would be chained or cemented or what have you.

HON W T SCOTT:

Mr Speaker, on leave and injury pay and sick leave for workmen, I notice that on subhead 16 particularly that has gone down from the revised. Have Government finally found a way in which to reduce that?

HON M K FEATHERSTONE:

We have noted, Sir, in the last few months of last year, since the threat of the closure of the Dockyard loomed up much more ominously, the amount of people taking unauthorised sick leave etc has diminished.

MR SPEAKER:

I understand the Minister has an amendment to Subhead 19.

HON M K FEATHERSTONE:

Yes, Sir. I beg to move that the figures £2,000 under Subhead 19. Subsidiary: Water to Shipping, be deleted and the figures £12,000 substituted therefor. This will be the subsidiary to shipping consequent on the statement made by the Hon Financial and Development Secretary when giving the votes figures.

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

HON W T SCOTT:

Mr Speaker subhead 19 and subhead 54 both deal with water supply to shipping. What is the difference?

HON M K FEATHERSTONE:

The £12,000 is the actual subsidy given to shipping which is charged at the higher rate and the subsidy is given back to them. The £21,000 is the actual cost of supplying the water to shipping and getting water from shipping, that is, the men employed on the pump lines, the bowsers, etc.

General was agreed to.

Highways

HON A T LODDO:

Mr Chairman, under the maintenance and improvements to roads, has any provision been made for the chipping of the kerb stones all along Main Street which are in a dangerous condition?

HON M K FEATHERSTONE:

Yes, Sir, that is part of the scheme that we have got in hand.

HON A T LODDO:

Does that also include the repair of the pavements in Main Street?

HON M K FEATHERSTONE:

The question of repairing the pavements of Main Street unless they are in a very dangerous state is at the moment not exercising our minds too much insofar that we hope that the pedestrianisation scheme may start this year when the whole pavement will actually be taken up and new pavements provided. But of course in little areas where there is some serious need for repairs this will be done.

HON W T SCOTT:

Can I ask, Mr Chairman, what is the Government's plan for the improvement of the roads, what schedules do they have, what roads do they expect to improve?

HON M K FEATHERSTONE:

I don't specifically have that here, Sir, but I can find out and let the Honourable Member know.

HON W T SCOTT:

There is a plan, I mean, it is not in a nebulous state like housing for example?

HON M K FEATHERSTONE:

Normally we take a certain number of roads but again it must be a little bit flexible.

HON P J ISOLA:

Yes, but what is the improvement because I notice two lines down there is a vote for resurfacing.

HON M K FEATHERSTONE:

There are the fitting of kerb stones, the whole resurfacing vote.

MR SPEAKER:

You are being asked to distinguish between maintenance and improvements and resurfacing.

HON M K FEATHERSTONE:

There is maintenance of all sorts of open spaces, steps, walls, ramps, nameplates, but shelters, it all mounts up to this amount

HON G T RESTANO:

I notice there is £50,000 for car parks. Is that a new car park that is going to be built?

HON M K FEATHERSTONE:

Yes, Sir. At the moment we are going to use this vote for two things. Firstly, for building new car parks and, secondly, we are going to use it initially to pay the cost of pay car parks, the cost of wages, etc, but as soon as these car parks start producing revenue then I shall be coming to the House for a supplementary to put the cost of running those car parks on a full footing. The new car parks that we hope to provide some would be at Moorish Castle, some in Devil's Tower Road. If you go round Gibraltar you will find certain areas in the last year were done and I think Queensway was done to some extent, pavements have been widened or cut into and car parks made, also opposite Marina Court, etc.

Highways was agreed to.

Mechanical was agreed to.

Pumping was agreed to.

Sanitation

HON A T LODDO:

Mr Chairman, I notice that under Sanitation in every subhead bar one there is a fantastic increase. In one of them, disposal of refuse, we are down by £40,000. How can one thing be explained as opposed to the other?

HON M K FEATHERSTONE:

Well, last year, Sir, the sum of £200,000 had pre-supposed that we were going to put a double shift. This was refused by the men and we worked on, as I have already said, a single shift with very long hours. We had hoped to be able to reduce that single shift. I may have to increase the £160,000 to somewhat higher figure, possibly by saving the money somewhere else in my

department without having to come here for a supplementary but the aim is to do the number of hours required to burn the refuse in no excess whatsoever.

HON A T LODDO:

Mr Chairman, does this mean that in fact the number of hours that are going to be needed to dispose of the refuse will be on an overtime basis rather than the two shifts?

HON M K FEATHERSTONE:

This is a question that we will have to negotiate with the men. In the first instance I think we will offer them the possibility of the overtime basis, if they still remain adamant and do not wish it we will have to consider the two shift basis. Later on in the year if unemployment becomes very rife and if the policy is to give as much employment as possible and share the cake as equally as possible, we may have to go to the two shift system anyway.

HON P J ISOLA:

Mr Chairman, this emphasises what I was saying in my own Budget contribution on the question of cost consciousness, of the pressures there would be at the end of the year on the Government to take on more employees. What we are anxious to see is the refuse cleared, the streets clean and cost consciousness and control and management of this area by the Government and we find very little evidence of this at the present time. As far as this particular vote is concerned, which is nearly a million pounds, we believe that we should have a better product so we will vote against.

HON M K FEATHERSTONE:

When we say nearly a million pounds this includes, for example, the sewers which are working very satisfactorily, the collection of refuse is working quite satisfactorily, the cleaning of highways I dealt with in my speech. I said that we would be possibly offering some improvement to the actual set-up at the moment and of course the whole question of disposal of refuse is if not a specific industrial dispute at least there is a certain matter of contention between the men and ourselves as to the hours to be worked but we are cost conscious. I would mention that putting in a double shift is often more expensive although obviously

gives, as I said earlier, a better share of the cake to more people.

HON G T RESTANO:

I have a question on the collection of refuse. The Minister has on two occasions given assurances in this House and to me, in writing, that the last collection up Main Street would not start earlier than 9.30 am but this is not happening. Can the Minister explain why this is so in spite of assurances?

HON M K FEATHERSTONE:

Sir, we have looked at this matter very carefully. There have been certain requests from the actual men concerned who, as the Honourable member must know, are on a task basis. The latest state of play which I think is not an unfair state of play is that they may start sometime between 9 and 9.15, do a run up Main Street, remove the majority of refuse which they will probably have done by a quarter to 10 or 10 o'clock and then do a final run so that if anybody has put their refuse out just on 9.30 it will be collected. This will mean that although they may start earlier by the end of the round at, say, 10.30, Main Street will be clean.

HON G T RESTANO:

I am satisfied with that, Sir, but would the Minister make this public?

HON M K FEATHERSTONE:

Yes, I will as soon as we have it definitely agreed with the men. I am saying that is the state of play, we haven't yet come to an absolute firm agreement.

HON P J ISOLA:

When the Minister talks of agreeing with the men is he talking of agreeing with the men individually or with the union?

HON M K FEATHERSTONE:

It is with the Union.

HON W T SCOTT:

Mr Speaker, on subhead 41 Toilets. I think we have often talked about it here.

MR SPEAKER:

We have, indeed. Yes.

HON W T SCOTT:

Particularly the toilets for cruise liners on the North Mole which seem to be in such a dilapidated state that they are virtually non-existent. Can the Minister say in fact whether within the sharp rise up to £97,000 that he is asking us to vote now, there is an element for the improvements of toilets in that area of Gibraltar?

HON M K FEATHERSTONE:

I can't specifically say that area but I will look into it and do my best to see if they can be improved.

On a vote being taken on Sanitation the following Hon 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 Hon D Hull
The Hon R J Wallace

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon J Bossano

Sanitation was accordingly passed.

Salt Water Supply was agreed to.

Potable Water Supply

HON M K FEATHERSTONE:

If I can just make a little statement on the Potable Water Supply?

MR SPEAKER:

Most certainly.

HON M K FEATHERSTONE:

The Honourable Mr Restano assuming that the Gibraltar Chronicle quoted him correctly, apparently said on the increase in water charges Government had not given any reasons for this so he assumed the taxpayer had again paid for Government inefficiency in this department. Firstly I would take issue with this "again to pay for Government inefficiency." This means that inefficiency has been going on for a long time. I will not agree that there is inefficiency in this department and he made later a comment that this was possibly due to the high ratio of water losses. Sir, I know the Honourable Mr Scott gives a lot of credence to computers, I sympathise with him in many ways. The billing of water is done by Government computer and my department does not fully wish to take the figures that they give us at face value but should we take the figures churned out by the Government computer and should we use those figures to assess the water losses for last year, the losses work out to the figure of 7.8%. This seems to be too low for the department, it seems to be too good we can hardly believe it. We would think that there may be some computer error in the actual amount that they state has been billed and that the losses would be somewhat higher. But if the computer is right then the losses are 7.8% and I think this is a very, very creditable figure so I don't think that the claim or the allegation of inefficiency in the department is really justified.

MR SPEAKER:

You did say when you spoke on the general principles of the Bill that you expected the losses to be in the region of 15%.

HON M K FEATHERSTONE:

Yes, Sir, this is the figure that my department normally expects, something between 13% to 20% with 15% as the average. But it has worked out this year, as I say, from the figures supplied to us,

7.8% which is a really fantastic figure.

HON W T SCOTT:

Mr Speaker, if I might make a general comment: It seems that last year because of the extra cost of the importation of water, we had a very sharp rise there. The rise is not reflected in this coming year and the extra on the distillers and the small addition to the pumping does not reflect the water situation as we might find it next year unless of course the Minister expects some more rain and would he care to comment on that or is it that the distillers are working more efficiently?

HON M K FEATHERSTONE:

Well, Sir, the sharp rise in last year was the fact that because we had had such a poor year of rain we had to import much more than we had normally budgeted for. Obviously we cannot say this year because we don't know what rains we are going to get in the early winter period. November and December can be very wet months but if they provided the normal rainfall then we will keep in the parameters that we have estimated. If, of course, we had another, and this I think would be the fourth year of very low rainfall, then of course I might have to come to the House for a supplementary as I did last year.

HON W T SCOTT:

On the importation of water I think we have restricted ourselves to Morocco at least as far as the importation of it, have any investigations been carried out on North Africa or another country that might perhaps be able to supply us at a cheaper rate?

HON M K FEATHERSTONE:

Yes, Sir, we have investigated very many areas, we have investigated Algeria, we have investigated Tunisia, we have investigated Italy and we have investigated Portugal. All of these areas would work out to be more expensive plus a very great capital outlay by whoever might be the operator whether it was Government itself or some private individual in a more substantial and much larger tanker to actually do it and the other difficulties that we foresee is that in most of these areas when we actually need the water which is in a time of summer and a time of drought they themselves are short of water and might not be able to supply it. We have up to the moment been very fortunate with our present suppliers because in many instances their own city has been very severely

restricted with water supply and yet we have always managed to get what we require.

HON A T LODDO:

Mr Chairman, on the importation of water. Can the Minister guarantee to this House or assure this House that on no occasion water which has been imported has been directly pumped into the sea, because I have been informed that this has happened in more than one occasion.

HON M K FEATHERSTONE:

Directly pumped into the sea?

HON A T LODDO:

That is correct. Pumped straight out of the hold into the sea.

HON M K FEATHERSTONE:

The only time I think that this might occur is that when the water comes in it is tested by the health authorities, should they find something wrong with it, for example, it might have got oil pollution or something, then they would obviously condemn the water and it would be pumped into the sea. Under normal circumstances this of course would not occur but should the water be contaminated then this is the only answer that you would pump out into the sea, clean out your tanks, and then use them again for another voyage.

HON A T LODDO:

Mr Chairman, in the case of the water arriving in a contaminated condition and having obviously to be pumped straight out into the sea, who pays for that?

HON M K FEATHERSTONE:

I think this is covered by the supplier. We only pay for water which we actually pump into the reservoirs.

HON A T LODDO:

Mr Chairman, would the Minister please find out and let me know because "I think" is not good enough.

HON M K FEATHERSTONE:

Yes, I will let you know.

HON P J ISOLA:

Mr Speaker, is it cheaper to import than to distil?

HON M K FEATHERSTONE:

Yes, Sir. The breakdown at the moment of complete costs or let us say initial costs, imported water costs £2.91 per ton and absolute costs £3.64 per ton. By absolute costs this allows for all the expenses of getting it into the Waterworks and subsequently distributing it. The VTE distiller works out an absolute cost of £4.47 per ton and the North Phase distiller works out at £4.45 per ton. Obviously we hope with the new distillers if we get them and if they are coming into service reasonably soon with waste heat we should get a considerable reduction so that perhaps the figures will be comparable with imported water. Of course the big difference in the distilled price of water depends on the capital charges involved in the actual schemes.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if I may add to that that I have just had an initial report from Coopers & Lybrand on water carriage and they carefully looked at this in the context of the Dockyard facility and they say quite definitely that distilled water from distillers provided on the grant would be cheaper than imported water.

HON G T RESTANO:

I remember that the North Face Distiller was considerably cheaper than the VTE distiller and I notice that now they are more or less the same price. Is it that the VTE distiller has come down in price or that the North Face has gone up in price?

HON M K FEATHERSTONE:

It is basically that the VTE has maintained its price whereas the North Face has got more expensive since it is not producing to so high a performance ratio as it was before. It used to perform somewhere around 85%, now it has dropped off because of its old age to something like 65%. This means that we are getting less water for the same amount of fuel and power, etc. and therefore the costs have gone up.

HON G T RESTANO:

I presume that that North Front Distiller is due for a write-off soon.

HON M K FEATHERSTONE:

Yes, Sir, it should have been written-off two or three years ago but thanks to the wonderful efforts of my water staff and engineering staff they have managed to keep it going for at least three years beyond its normal useful life.

HON P J ISOLA:

Mr Speaker, if that is the case why not write it off and rely more on importation of water which is almost half the price?

HON M K FEATHERSTONE:

There are basically two reasons for that, Sir. One is that we cannot get more imported water as easily as we would like because basically the amount of water that can be actually carried by tanker is limited unless one was to invest in a new and larger tanker and of course even if one were to do so one couldn't guarantee that the supplying area could give us all the water that we want. I wouldn't like it to be said in public that we are getting actually more water than the suppliers initially wanted to give us. The other reason, of course, is that we want to keep the North Face distiller working as much as we can so that it is available during the period of time when the VTE distiller is under maintenance.

HON A J HAYNES:

Mr Chairman, does the Minister have any proposals for that North Face distiller? If it is written-off will it be replaced by new machinery?

HON M K FEATHERSTONE:

We have applied to ODA for a new distiller which we have already accepted the tender for and which will be paid hopefully by ODA if not it will have to be paid for by itself and we also have the option of a second distiller which again we hope will also be able to come through from ODA. These two distillers which will work at a higher capacity or performance ratio will more than supplement the North Face and the VTE when that is also phased out.

HON A J HAYNES:

These new distillers I understand are going to be situated near the power station to run off the energy from the power station?

HON M K FEATHERSTONE:

Yes, that is correct.

HON A J HAYNES:

Then what is going to happen to the actual building?

HON M K FEATHERSTONE:

I presume eventually they will be knocked down and that area will be available for some other development.

Potable Water supply was agreed to.

Cemeteries

HON A T LODDO:

Mr Chairman, I have noticed a very sharp increase in the upkeep of the Cemetery. Could the Minister comment on that, please.

HON M K FEATHERSTONE:

Yes, Sir, partly we have taken on extra men to be able to provide for keeping the cemetery much cleaner and we are also carrying out this year some essential improvement to the Mess Room for the men and the pathways. If you have been round recently you will have seen that many of the pathways have been tarmaced and we hope to bring the cemetery up to a higher standard than it has been before.

HON A T LODDO:

Mr Chairman, how many men actually have been employed?

HON M K FEATHERSTONE:

Five.

HON A T LODDO:

How many do we have now in the cemetery altogether.

HON M K FEATHERSTONE:

Twelve, Sir. Seven are specific gravediggers who are supposed to help clean the cemetery when they are not digging graves but they always seem to be digging graves. There are five men who are exclusively on the task of keeping the cemetery clean. These are the extra new men

which we hope will in the next year or so put the cemetery into a much happier state.

MR SPEAKER:

Not for the inmates.

HON P J ISOLA:

The question of digging graves, isn't that something that is easily ascertainable? You know how many people die every day and are buried or those people dying who are not being buried or people being buried who have not died?

HON M K FEATHERSTONE:

No, Sir, but they undertake other work besides the actual digging of an immediate grave such as preparing vaults, etc. This of course is done now as a Government operation and is charged by Government on the actual person concerned.

HON A T LODDO:

Mr Chairman, I wouldn't like to disappoint the Honourable Chief Minister so I will ask this question. Is any provision made here for refurbishing the two toilets in the Cemetery. There are two and they are not in a very good state.

MR SPEAKER:

Have you had any complaints from the inmates?

HON M K FEATHERSTONE:

There is no specific provision but I will have a look at the toilets. None of the inmates have actually complained.

HON A T LODDO:

No, but the visitors do.

Cemeteries was agreed to.

Recreation and Sport

Personal Emoluments.

HON H J ZAMMITT:

Mr Chairman, Sir, before I go on to this, with your leave

may I say, Sir, may I be allowed to clarify for the benefit of the Hon Major Peliza under Head 17 Post Office Item 5, the conveyance of Mail, and I think the Hon and learned Leader of the Opposition also asked on this. I am sorry, Sir I may have misled the House. The situation on the Saturday collection of mail is that mail posted up to Friday leave on that same day. Any mail posted after 11 a.m. on Friday is not sorted on the Saturday but is sorted and departs on the Sunday flight and not on the Saturday flight. The reason for this Mr Chairman, Sir, is the cost element, that it would require to have Sorters on a Saturday which would be to the tune of £10,600 and secondly and more important indeed is the fact that mail arriving in England on the Saturday or on a Sunday is not delivered until the Monday. If we were to send mail on a Saturday it could be sorted out in England but not delivered until the Monday so there is no advantage in sending it on a Saturday at all. As regards the Honourable Member's question, he is absolutely right, there was a circular sent in the PO Boxes on the 27th March this year giving all these details and I am sorry, Mr Chairman, if I gave any other impression as regards the Saturday collection despatched from Gibraltar.

HON P J ISOLA:

Could I make two points on that. As I understand the position in England the mail is not moved around on a Sunday but it is moved around on a Saturday so therefore there is some advantage in getting it on a Saturday. The Saturday mail will be delivered on Monday morning but the mail that arrives on the Sunday will not be delivered in England on the Monday morning it will be Tuesday morning, that is my personal experience. That is one point I would like to make. The second point, Mr Chairman, is that there is merit in putting mail on the Saturday; not necessarily using the Saturday morning sorting. Have a later time for mail on the Friday which still catches the Saturday mail. The Minister talks of eleven o'clock in the morning, there is a lot of business mail, a lot of personal mail that is posted during the day on Friday. Without touching the Saturday position couldn't he enquire to see whether the mail could in fact be put on the Saturday plane. I think it makes quite a difference at the other end and, Mr Speaker, if there is a daily air service to England it is odd that there shouldn't be a daily air mail service having regard to the revenue at the Post Office gets from the people who pay to send the mail. I think he will find that there is a very big difference between mail going on a Sunday and mail going on a Saturday. As far as delivery at the other end, as far as international flights

are concerned from England on to other countries it makes more than a day's difference. I would really ask him to look into that.

HON H J ZAMMITT:

I will certainly look into that, Mr Chairman. I am informed that if mail was to leave on a Saturday it goes to Redhill and is left there but I will certainly take it up and see if there is a way we can do it. On the other point, Mr Chairman, also that I committed myself to find out some information and that was regarding the Social Insurance Stamps. Of course I should have said that the Post Office is offering a service for the Labour and Social Security Department and the matter will be referred by the Director of Postal Services to the Director of the Labour and Social Security if there is a way in which it can be solved but I must say once again, Sir, that I checked with my Director this morning and we have received no complaints at all at the Post Office of any aspect at all on the question of the collection of stamps.

HON MAJOR R J PELIZA:

I have one comment, Mr Speaker, on the mail collection and despatch. I think the Minister should bear in mind how important that is from the point of view, particularly now, from the point of view of this being a financial centre. If it means that the Post Office will have to fork out some more money I think he should give very careful consideration to the matter because I think it is worth it.

MR SPEAKER:

The point has been made and I am sure the Minister will take it up. We are at Personal Emoluments of Head 21. Recreation and Sport.

Personal Emoluments was agreed to.

Other Charges

HON A T LODDO:

Mr Chairman, on the telephone service. Would not the Minister agree that at £1,000 per telephone with a staff of six is rather high?

HON H J ZAMMITT:

I don't know how high it is, we have three telephones there

and I would say that I may or may not agree with the situation. There are two lines into the Victoria Stadium and there is also a public telephone and although you have to put your coin into it the Stadium still has to pay the rental. We are paying for three telephones and I don't honestly think excessive use is made. The Stadium doesn't have all that very many international calls. We may have to call somebody in England but very infrequently, it is mainly local calls with Government Departments.

HON W T SCOTT:

Who actually opens the coin box and collects the money is it the Stadium authority or the Telephone Department?

HON H J ZAMMITT:

I think it is the Telephone Department, these coin operated telephones provide a good income for the Telephone Department and in addition they make us pay for the rental.

HON W T SCOTT:

Because if that is true if it is the Telephone Department that collects it then I can't see how they can charge it again under the £1,000.

HON H J ZAMMITT:

They charge a rental for your phone whether there is a shilling in it or there is fifty thousand pounds.

HON P J ISOLA:

I don't want the details of it but can the Minister explain why in the case of salaries the expected rise is 6% and in the case of wages it is 13%. Is there any particular reason?

HON H J ZAMMITT:

I think the wage increase to non-industrial was something in the region of 7% but we have a situation there where the HEO, the Sports Manager, there is some ambiguity and some problem with the analogue which has not yet come through and there is probably a slight change there. The wages come under the industrial side.

HON P J ISOLA:

Yes but there is 13% increase where wages are concerned

and only 6% where salaries are concerned.

HON H J ZAMMITT:

There are two reasons for it. One was the diminishing of the 39-hour work, 40 to 39, which inflates the overtime rate somewhat more and of course as I tried to explain the other day they are on 39 hours whether they do a 39 hour from a Monday to a Friday or a 39 hour from a Wednesday to a Sunday but of course working on a Saturday or a Sunday you have to pay them the corresponding increases.

Other Charges were agreed to.

Special Expenditure

HON A T LODDO:

I notice that under structural alterations to implement charges we have had for two years running a token vote of £100 and this year we haven't got it. Can the Minister explain how he is now going to implement the charges without making use of this token vote for whatever it was going to be used before?

HON H J ZAMMITT:

Mr Speaker, the situation with charges as the Member opposite certainly knows and I suppose other Members know, is a matter that has been under discussion for quite a long time, not having been received with very great enthusiasm by those who all of a sudden are being asked to pay. The frontier situation, or the partial opening of the frontier, has brought about, unfortunately and regrettably, a lack of usage particularly in one sport on the Sunday and because of that it has been decided to leave things in abeyance to see exactly what occurs with the sporting fraternity particularly with one major sport before we actually implement this. There seems to be a consensus that there should be some charge within the Sports Committee.

HON W T SCOTT:

The £100 token that we voted in last year to effect the structural alteration, where was that spent?

HON H J ZAMMITT:

A token vote if you don't spend it, you don't spend it, it's not there, it is only a token.

MR SPEAKER:

It is a frustrated vote.

HON W T SCOTT:

What I am saying is that last year it did appear and it appears that it was spent under the revised estimates.

HON H J ZAMMITT:

No. Provision is made for a token vote. If it is used it would probably have been much more than £100 and therefore there would have been provision but there has been no use at all of it so it has been squashed out for the time being.

HON A J HAYNES:

Sir, we would like to amend Special Expenditure by the introduction of a new subhead. Contribution to Mini Olympics.

MR SPEAKER:

You cannot amend anything which implies the increase of expenditure.

Special Expenditure was agreed to.

HON ATTORNEY GENERAL:

Before you come to the next item may I answer further a matter which I spoke to yesterday on the Prison as I have some further information. Mr Chairman, I once worked for a person who when I sought to find out information from him quickly he would look rather worried and say it was entirely off the cuff. What I said yesterday was not entirely off the cuff, I am not qualifying it, but I do want to make one thing clear which I think the House will be interested to know and that is that while the prison service is a disciplined service, at the moment there is no express requirement to wear uniform. I think it is clearly an incident of the good order and running of the prison and certainly the view taken by the Superintendent would be that he expects the men to wear uniform and uniforms are provided. There is in fact no specific requirement.

MR SPEAKER:

It is not a condition of service, is that what you are saying?

HON ATTORNEY GENERAL:

It is not an express condition of service but of course he would take the view and I think Government would take the view it is an implicit condition of service. To the extent that it may need to be made explicit, the matter will be looked into.

Head 22. Secretariat

Personal Emoluments

HON G T RESTANO:

Mr Chairman, is there anybody or more than one person involved specifically with the preparation of General Orders?

HON ATTORNEY GENERAL:

Mr Chairman, it is a matter which is handled in the Establishment Division. There is certainly one officer, I think, who is primarily responsible for the drafting work on it but the Establishment Officer himself is involved and my own Chambers are involved and I am sure other officers within the Secretariat are involved in helping out.

HON G T RESTANO:

Does the Honourable Member have any indication of when the revision will be completed?

HON ATTORNEY GENERAL:

The revision Mr Chairman, has been done in stages and I think at this point we have come through a number of phases, we haven't finally completed it, there is an element of consultation with the Association involved and I would not like to put a time limit on exactly when it will be completed but it is a matter which has been given priority. It is not a small undertaking.

HON P J ISOLA:

Can I ask on personal emoluments, Mr Chairman, what is the need for extra staff and how are they being allocated? I notice there is an increase of 4 in the Secretariat. There seems to be an increase of one Executive Officer, two Clerical Officers and a Clerical Assistant. Where are they all fitted in because the impression one gets in the Secretariat is that they are a bit over-crowded.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Nationality Unit.

Personal Emoluments was agreed to.

Other Charges

HON A J HAYNES:

Sir, on Other Charges under Sub Head 13, Printing of Stationery, is the reduction just simply as per (b) that there has been a reallocation or is there a genuine cut there? Does it mean that the costs in effect are the same but there has been a re-distribution among departments?

HON ATTORNEY GENERAL:

It is a result of re-allocation printing costs are not going down.

HON G T RESTANO:

May I ask what subhead 16, Mayoral Expenses, is all about? It is the first time we have had this.

HON CHIEF MINISTER:

The point is that the entertainment vote last year is more than this year. We have tried to cut it but we couldn't cut it that far and as it always included the mayoral expenses it has now been separated and therefore the entertainment vote which covers all departments and ministries and so on has been kept below the figure for last year but we have put in a separate item so that they can be itemised and we can keep a closer control of the bigger items.

HON P J ISOLA:

If the mayoral expenses have been put separately should this item not really read Mayoral entertainment vote?

HON CHIEF MINISTER:

Yes, perhaps that is a better way. There are no expenses involved except I don't know whether the question of the Driver is included, I don't think, I think that would come under another department.

HON P J ISOLA:

I would be very surprised if the driver was included there, Mr Chairman.

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HON CHIEF MINISTER:

He only has a driver for official functions. He has to be paid overtime and the man is employed somewhere else full-time. Perhaps it could be described as Mayoral entertainment expenses or something like that.

HON P J ISOLA:

The reason I say that is because the next thought I was going to throw, it is not urgent for this year, is whether there should be a mayoral head overing all the expenses of that post. I don't know whether that is possible or practical but it might give an idea of how much it costs to have a Mayor in Gibraltar.

HON W T SCOTT:

On subhead 7, Mr Chairman, Rents of Flats and Offices. I notice a drop there. Is this as a result of a proposed move of a section of the department from rented accommodation?

HON A J CANEPA:

Yes, Mr Speaker, the IRO's offices which were previously privately rented have been given up.

Other Charges were agreed to.

Special Expenditure

HON W T SCOTT:

Mr Chairman, under 81, special expenditure. Enquiries into Departmental Functions and Efficiency - £7500. Presumably this is partly if not totally for the expenses of the Chairman of the Steering Committee and if it isn't is it the intention of Government to appoint another committee of enquiry into another department of Government and if so which department?

HON ATTORNEY GENERAL:

Mr Chairman, the reason for the decrease is that the matter is connected with the Chairmanship of the Electricity Department Steering committee which it is hoped will cease fairly early in the financial year 1983/84 but there is provision for the possibility of another committee. yes.

HON W T SCOTT:

If there is a possibility can Government say to this House

what department it is next thinking of investigating?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have suggested to the Government, Mr Chairman, that the Treasury might be looked at next.

HON CHIEF MINISTER:

But it is not intended to have a wideranging enquiry like the other two. This would be a rather limited enquiry.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it would be more linked with getting much of the Treasury work on to a computer and the accounts system.

HON W T SCOTT:

But the salary of the Chairman of the Steering Committee is included in that vote?

HON ATTORNEY GENERAL:

Yes, it is and as I mentioned, Mr Chairman, it is expected that the work of that will cease early in this financial year.

HON P J ISOLA:

Well, I don't share his optimism, certainly not after the answer from the Minister for Municipal Services yesterday when he told us that they would finish when they finished. Can I ask, just to get the thing right. The revised estimates for 1982/83 is £69,000. If I remember rightly we have voted £54,000 supplementary provision in respect of that particular gentleman. Could we have the right figures because we have been a little confused by the general debate.

HON ATTORNEY GENERAL:

If we may we will ascertain and provide the figures for the Honourable the Leader of the Opposition.

Special Expenditure was agreed to.

HEAD 23 TELEPHONE SERVICE

Personal Emoluments

HON G T RESTANO:

Sir, may I ask why it has been found necessary to

increase the number of Trunk Operators in a year where International Direct Dialling has been introduced?

HON DR R G VALARINO:

Mr Chairman, Sir, in fact and I wanted to mention this. There are in fact 10 telephone Operators, not 12.

MR SPEAKER:

In other words the establishment is 10 and not 12.

HON DR R G VALARINO:

Yes, there is no financial provision for 12, Sir.

MR SPEAKER:

And there is no increase?

HON DR R G VALARINO:

There is no increase.

HON G T RESTANO:

I notice that there are also three new Telephone Trunk Operator Supervisors. What is the reason for that?

HON DR R G VALARINO:

Yes, Sir. This was a paper that came before Council because we felt we needed Supervisors for the Telephone Trunk Operators and they will deal with a variety of problems some of which were probably dealt before by the clerical officer. The on-call, the leave, the cover, the running of the switchboard as well, reporting of switchboard faults, operator roster, subscriber complaints and recording of statistical data. All in all they will not only be running the switchboard but they will be doing a lot of work some of which was done before by the clerical officers.

HON G T RESTANO:

Mr Chairman, I still think that this year where International Direct Dialling has been introduced, I would have expected to have seen certain cuts in, say, temporary assistance because clearly the work that has to be done by telephone operators is less than it used to be before because in most cases all they have to deal with is Spain and Morocco.

HON DR R G VALARINO:

Mr Chairman, the Honourable Member is quite right, in fact, if he looks down the page and he sees that for the temporary assistance there are eight telephone trunk operators, the contracts of these temporary trunk operators will finish in May or June this year so we shall have eight less operators at that time.

HON G T RESTANO:

Is that reflected in the personal emoluments? I see that there is an increase in salaries and a decrease in overtime and allowances but there is an increase in salaries. If eight telephone trunk operators are going to finish in the department during the year I don't really see it reflected in the figures.

HON DR R G VALARINO:

Mr Chairman, it is reflected in salaries and if the Honourable member would look closely he will find there that there are gratuities for the 8 temporary operators of £12,000. This is payable when they finish their two-year contract.

Personal Emoluments was agreed to.

Other Charges

HON G T RESTANO:

Does the Minister not consider that the Electricity and Water Charges for the Telephone Service seems to be rather high at £10,700 compared to other departments?

HON DR R G VALARINO:

Mr Speaker, Sir, I don't consider them high but I shall endeavour to have another look at them and make sure they are up to scratch and shall report to him eventually on this.

HON G T RESTANO:

Can the Minister explain what subheads 11 and 12 are, Special services and Telephone Advisory Service?

HON DR R G VALARINO:

The Telephone Advisory Service, really, this is a token provision and in fact it was a token provision last year, if I remember rightly, and the Honourable Member

asked the House the same question. This is a token provision just in case we need advice from Telconsult on some aspect of the department eg salaries. That is only a temporary provision. As regards the Special Services, this is the service which is run at the City Hall and they are responsible in the main for connecting the more sophisticated equipment like PABX's and PMBX's and the like. They are really a highly sophisticated and very well trained section of the Telephone Department.

HON G T RESTANO:

Mr Chairman, if I may speak first on the Telephone Advisory Service. This is for advice, possibly on tariffs and so on. My understanding is that a telephone call for the Cadiz area is 66p for 3 minutes whereas the tariff the other way is about 12p for the same amount of time. Why is it so inordinately more expensive?

HON DR R G VALARINO:

Mr Chairman, Sir, in fact if we are referring to the United Kingdom.

HON G T RESTANO:

No, I said the Cadiz area, Spain.

HON DR R G VALARINO:

The Honourable Member unfortunately has chosen the wrong thing to compare with. We get very little revenue, practically none coming from that end therefore on calls from Spain to Gibraltar we get practically peanuts. Therefore the only way to make some money in that direction is to increase the local charge over to Spain. Let me say at this point that the ideal situation would have been to have direct dialling to Spain but unfortunately due to circumstances beyond the control of Gibraltar this is not possible and what we try to do is that the money that we lose from calls coming in we try to obtain from calls going out.

HON G T RESTANO:

It is only fair that something like this should be highlighted when, for example, an increase by certain traders on computer machines is criticised as profiteering. To me, this would seem to me to fall into the same category.

MR SPEAKER:

Well, that is a debatable point.

HON G T RESTANO:

On the special services, Mr Chairman. The coin boxes, for example, at Main Street. Can the Minister say who collects the money from there?

HON DR R G VALARINO:

The coin boxes at Main Street, Sir, we collect the money from them, the Government.

HON G T RESTANO:

Is this the Telephone Department?

HON DR R G VALARINO:

This is at the Telephone Department itself, yes.

HON G T RESTANO:

What element of checking is there between the calls that are actually made and the money which is actually obtained?

HON DR R G VALARINO:

The checking that is done is quite simple because as we have the equipment which checks on international calls therefore the money that is obtained from the telephone box is compared to the amount of money of that telephone number in the exchange. An international call from a coinbox will show up in the exchange. That amount of money will show up in the exchange as well and we are able to compare the figures.

HON G T RESTANO:

Does the Government intend to have more of these telephone boxes?

HON DR R G VALARINO:

Mr Chairman Sir, I mentioned during my speech that we had already installed a tremendous number of coinboxes and throughout Gibraltar and if he looks at the Improvement and Development Fund he will notice that more are envisaged this year.

Other Charges were agreed to.

Head 23. Telephone Service, was agreed to.

HEAD 24. Tourist Office

(1) Main Office - Personal Emoluments

HON MAJOR R J PELIZA:

Mr Chairman, under Subhead 1, Salaries. I see that there is an increase of £18,100 and perhaps as they are all connected with salaries, Mr Speaker, I might put the question at the same time; Overtime £800, allowances £300. I wonder if the Minister could give an explanation on those three points.

HON H J ZAMMITT:

Mr Chairman, certainly. The question of the increase of the £18,000 is the 7% increase in wages. The other factor there of overtime is a slight increase on last year, again keeping to the 39-hour week that we have to agree to and therefore it inflates slightly the overtime rates. We are trying to keep overtime to the minimum possible and allowances which are by way of agreement. I cannot expand much further on that.

HON MAJOR R J PELIZA:

On what does the overtime go mostly and also an indication of what the allowances are about?

HON H J ZAMMITT:

Mr Chairman, overtime goes mainly in the Tourist Office between the Messenger Driver and the Clerical staff, the girl on duty at the Airport Terminal on a Sunday and Saturday, the girl that we have now at the Frontier post and incidentals that come from time to time particularly Miss Gibraltar who takes up some overtime. The manning of the Piazza Tourist Office which is open on Saturday morning is also at overtime rates.

HON MAJOR R J PELIZA:

And the allowance?

HON H J ZAMMITT:

The allowances are, Mr Speaker, for people who act in the absence of the Director, the HEO goes up and therefore the EO becomes an HEO and the CO becomes an OC or whatever it is.

Personal Emoluments (Main Office) was agreed to.

Other Charges

HON MAJOR R J PELIZA:

Just a comment on Subhead 4. I notice that there is quite a drop in the maintenance and running expenses from motor vehicles.

HON H J ZAMMITT:

We bought a new car last year and it is under guarantee for a certain period and it is not expected that we will have to incur expenditure in mechanical repairs.

HON MAJOR R J PELIZA:

Mr Speaker, on subhead 8 - Photographs. I see that the sum is £2,900 and this is normally the amount spent. It seems to me a lot of money in photographs and I wonder if the Minister can explain how we spend so much money on photographs?

HON H J ZAMMITT:

Mr Speaker, on photographs it was done by way of tender and we have a nominal sum to pay the successful tenderer and of course the number of photographs that we require in keeping up-to-date. There is a constant demand for photographs by the press, by people in Great Britain in particular and we have to keep them up to date with current photographs.

HON MAJOR R J PELIZA:

Mr Speaker, there is a film which is shown for presenting Gibraltar as a holiday resort, can the Minister say if he is satisfied with the state of that film?

HON H J ZAMMITT:

Mr Speaker, we have two. We have one film which is a little outdated in the sense that it is now I think something like 7 or 8 years old which we are not showing, particularly on trade promotion and we have an up-to-date audio visual. In the case of an audio visual you can insert slots and add some chat to it, but in the case of a film you cannot. We have tried and I have done my best to have an up-to-date film but what we have done is that we have made Videos of the film which we send out to travel agents and also video of the audiovisual for travel agents to be able to show themselves to prospective clients. A film today would cost something in the region of £25,000 to £30,000.

HON MAJOR R J PELIZA:

Would the Minister agree with me that it is vital that when we make those presentations what we see on those films are attractive enough to impress those who are there otherwise it could be counter productive, it might be better not to make a presentation of that nature. If the money has got to be spent in producing the right sort of thing to sell Gibraltar, I think it should be spent since this is one of our main industries in Gibraltar.

HON H J ZAMMITT:

I can assure the Honourable Member and all Members of this House that the Audio Visual is superb and very highly commended by everyone who has seen it, Mr Speaker.

HON G T RESTANO:

On subhead 5 - Electricity and Water. I notice there is an increase of 34% which seems rather high. What is the explanation for that?

HON H J ZAMMITT:

Mr Speaker, the question of water is not just for the water in the offices, it is for the water at the various sites and in particular I must say the biggest source of consumption is the Caravan Parking Site.

HON G T RESTANO:

Don't they pay for their water.

HON H J ZAMMITT:

They do pay, Mr Speaker, an element but a paltry sum, unmetered, uncontrolled. We must find a way of being able to control the taps there, because it has been an abuse, not only by the caravanners but by other people making use of water for washing cars when not supervised by adequate staff.

HON G T RESTANO:

Does the Honourable Member have any idea how we can control this.

HON H J ZAMMITT:

We had thought of meters but of course the cost of installing meters was quite high and in addition we are not very happy about keeping caravanners there in perpetuity.

HON G T RESTANO:

Does he have any idea how to control it?

HON H J ZAMMITT:

Yes, Mr Speaker, we have to do something such as supplying water during particular periods of the day.

HON MAJOR R J PELIZA:

Subhead 11, Staff Training £500. Can the Minister say what this training consists of?

HON H J ZAMMITT:

I must say, Mr Speaker, with great apologies, that I have that page missing. I will certainly get that.

HON MAJOR R J PELIZA:

The next one is subhead 12, Sundry Festivals. Can the Minister say which are the ones that are going to be held this year. I notice that there is an increase. Is that an increase in the cost of the existing one or is it that we have an additional one?

HON H J ZAMMITT:

Mr Speaker, the main bulk of that is absorbed by Miss Gibraltar. In addition to that we are intending to carry out a candlelight exhibition during the month of August in Alameda Gardens, hopefully, but that is a very minor part in that vote. The main chunk is the Miss Gibraltar Contest which is becoming extremely expensive but which I think Members will agree is the only show that we put up for Gibraltar in its entirety, televised, and which we have done successfully for a number of years and which has been certainly in the past few years of a very high standard and if we want the standard, if we want the Miss Gibraltar Contest we have to pay the price.

HON MAJOR R J PELIZA:

Subhead 14, Mr Speaker. Service of airfield after hours. Obviously that is a token vote and so it was I suppose last year but it was not used. I wonder if the Minister could say what that is for?

HON H J ZAMMITT:

Mr Speaker, there was a possibility of night flights

arriving and departing Gibraltar with the Air Europe situation and therefore it was again considered prudent to put a token vote there, and of course we would, as in the past, pay for that. I have just been provided, Mr Speaker, with the information required by the Honourable Member opposite on staff training and I am told it is for the provision of cost of a tourist survey, interviews at airport etc., out of the staff training.

HON A J HAYNES:

Mr Chairman, to go back to subhead 13, Field Sales - Morocco. Can I have a breakdown of what this one involves?

HON H J ZAMMITT:

I would like to say that Morocco is invariably visited monthly by the Director and a Member of the Gibraltar Tourist Office and I am very grateful to Blands who provide free transport to and fro. The idea is to visit the people concerned with Gibraltar, tour operators and travel agencies that deal with Gibraltar, and this last year, as is known, a visit was paid to Rabat and Casablanca.

HON A J HAYNES:

Is this to generate more tourists from Morocco?

HON H J ZAMMITT:

That is the intention.

HON A J HAYNES:

Mr Chairman, I don't want to rake up old scores but the problem with stranded tourists, as he appreciated last time was a serious problem. Can he undertake the necessary measures to ensure that it does not occur again.

MR SPEAKER:

No, you can ask whether there is any vote, or any item which will ensure that.

HON A J HAYNES:

Well, is there any item that will ensure no repetition of that kind of episode?

HON H J ZAMMITT:

No, Mr Speaker, there is no item under this Head that ensures that and I must repeat that I do not think it is Government's duty, or the Tourist Office duty to afford anything other than personal assistance. That is up to the operators.

HON MAJOR R J PELIZA:

In subhead 16, I notice that there is a decrease in the share of fees paid to the exhibitors of £2,400. Is this because the percentage of their fee is down or is it because the collection at the site has gone down?

HON H J ZAMMITT:

Mr Speaker, it is that we are now paying less percentage. We started at 35% and 30% and as from week ending the 13th of February this year we were down to 20%, and as from the 13th of February next year we are down to 15%.

HON MAJOR R J PELIZA:

Can the Minister say if the takings have increased or decreased?

HON H J ZAMMITT:

I answered that in reply to a question by the Honourable and Gallant Major, I think at the adjourned meeting of this House. There certainly has been an increase of visitors to our sites.

Other Charges was agreed to.

Special Expenditure.

HON MAJOR R J PELIZA:

Special Expenditure, Subhead 8, Book on Gibraltar by Dr Sparrow, £5,000. It comes as a surprise to me that the Tourist Office is going to pay for the writing of a book, can the Minister explain.

HON H J ZAMMITT:

Mr Speaker, it is quite a lengthy explanation and I hope the House will bear with me. It is a book on Gibraltar Mr Speaker, but I think it is an important book on Gibraltar. Dr Sparrow is a man of extremely high repute and I was very disappointed to see that the only book on Gibraltar that one would find in the

Commonwealth Institute was that epistle written by Dr George Hills and therefore I think that it is vital that we should have something on Gibraltar both on the political and touristic side and I think it is vital that we have something like that.

HON MAJOR R J PELIZA:

Mr Speaker, I cannot see the need for this and I must say that I can't agree with what the Minister is saying. First of all, I am sure that there are plenty of books written on Gibraltar, quite a lot in fact. If there are no books on Gibraltar I would assume it is because someone has not been doing his duty going round the institute, which by the way, I think, the London Office could keep an eye on because it is not only books, the exhibition itself is in a terrible state but I will come to that later. On the book itself, Mr Speaker, I would have thought that it would be much cheaper just to present the institute, not with one book but with a number of books rather than have one written and paid by the Government which will look, I think, a fabrication. Whatever we say, it is paid by the Gibraltar Government and it will not carry the weight, I think, of a book which is written spontaneously and I cannot vote for that, Mr Speaker, on those grounds.

HON H J ZAMMITT:

The book will be distributed, Mr Speaker, that is what we are trying to achieve, not only to the Commonwealth Institute but what does occur is that Her Majesty's Stationery Office did buy a certain number of copies of Dr George Hills book and circulated that one amongst the Commonwealth Institute and amongst many Universities throughout the world. I think that we should now produce a book on Gibraltar. I must say it is not just a political book it is also on the whole set-up of tourism in Gibraltar.

On a vote being taken on Special Expenditure - Main Office, Subhead 80 - Book on Gibraltar by Dr Sparrow, the following Hon 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 Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon J Bossano

Special Expenditure was accordingly passed.

London Office - Personal Emoluments.

HON MAJOR R J PELIZA:

Mr Speaker, Allowances, £9,800, could the Minister explain what the allowances are?

HON H J ZAMMITT:

The allowances are a London Allowance that we pay our staff whilst in England. We have to pay them an allowance otherwise we would not get people prepared to go to London.

Personal Emoluments was agreed to.

Other Charges.

HON MAJOR R J PELIZA:

Subhead 2, General Office Expenses. This is again beating the old drum again. I am glad that the Minister is now considering using the office for the philatelic sales.

HON H J ZAMMITT:

No, I have not said that.

HON MAJOR R J PELIZA:

I thought he had said he was considering doing it.

HON H J ZAMMITT:

I said we had considered the question of using the Gibraltar Tourist Office. We are considering it.

HON MAJOR R J PELIZA:

You have considered it.

HON H J ZAMMITT:

Yes, but not that we had agreed to it.

HON MAJOR R J PELIZA:

I said that I am glad that he is considering it, that is a move in the right direction. But would he also consider using the office to project Gibraltar as a financial centre, which I have said before, not necessarily to attract the big bankers, but to attract the small savers. I have had personal enquiries about that so I think that is another thing that they can do and also to project the image of Gibraltar on which the Minister has already agreed to spend £5,000 in publishing a book which I think is going to be counter productive if it is paid by the Gibraltar Government and I think that that money could be better spent in projecting Gibraltar from the Office with existing literature which can be seen to be totally impartial and therefore, Mr Speaker, I would like the Minister to say whether he would consider, not only for the philatelic sales but also for the other three points that I have just made.

HON H J ZAMMITT:

Mr Speaker, I regret to reiterate that it is a Government Tourist Office. We cannot convert the Gibraltar Government Tourist Office into an embassy, into a consulate or into a trade agency. I am sure, however, that any approach made to the London Tourist Office by any sector with interest in Gibraltar will be referred to the pertinent department but I am not prepared to allow the Gibraltar Tourist Office to be used as an embassy or any other thing apart from tourism.

HON MAJOR R J PELIZA:

I am surprised Mr Speaker, that he won't allow that to happen and yet he is prepared to spend £5,000 on almost the same thing. But anyway, obviously they are adamant as usual and there is no point in pursuing the matter further. Perhaps we will have to see a change of Government before people get to know a bit more about Gibraltar in Britain which is so necessary. Could the Minister please undertake to have a look at the display in the Commonwealth Institute in London which is in a terrible state and has been like that for a number of years and their attention has been called to that matter before.

Could they please get someone in this office to look after that area.

HON H J ZAMMITT:

Mr Speaker, I have personally been to the Commonwealth Institute together with the Manager of the London Tourist Office but I must make it absolutely clear that it is not a Tourist Office responsibility. The fact that we happen to have somebody in England goes back to the argument put by the Honourable and Gallant Major that not because the Tourist Office happens to be in London must we accept responsibility for everything that happens in England. This is why I oppose the consular, the embassy or whatever situation. I have been there, I have looked at it, we have had experts looking at it, and we have had guesstimates and we are asking for definite estimates.

HON MAJOR R J PELIZA:

I think I heard the Minister say that the rent is going up considerably and I wonder if the Minister can say whether that will persuade the Government to move to an upstairs office rather than have a ground floor, and also whether perhaps they would find a place which is not so expensive and perhaps in the end even more useful. Could the Minister explain if there are any plans in this connection?

HON H J ZAMMITT:

Mr Speaker, as I mentioned in my intervention on the Finance Bill, yes, we have had indications from the landlord that our rent is to be virtually doubled and we are not at all happy about that. It is quite an exclusive and expensive area and, again, I have personally looked at this together with my Director and the London Office staff and we have asked our solicitors in England and our surveyors to try and find alternative accommodation, not necessarily in the heart of London, but probably in the outskirts. I would not personally be very sympathetic to having an upstairs office somewhere, I think that Gibraltar requires a shop front, ground floor level. Not that it has to be in the Strand or in Trafalgar Square but if we could find somewhere where we could get a tenancy with a reasonable lease, then I think we would look at it very, very favourably.

HON MAJOR R J PELIZA:

I will not quarrel too much with that one with the

Minister because I think there is some merit in what he says provided the rent is right. In choosing the place, I would suggest that first it should be, if possible, in the Victoria area where now we have the terminal and another thing is that it is close to an underground.

HON H J ZAMMITT:

Mr Speaker, I do not know how close we can get but one thing I must explain is that although we would like to stay in London for status as a Government Office, we must not forget that many tour operators are moving out of London, as the Honourable and Gallant Major well knows, because of the fear of increased rents.

HON MAJOR R J PELIZA:

Yes, Mr Speaker, public relations. I see that they spent good money on public relations. £16,500. I would very much like to know what the functions of the public relations are for that amount of money. This, I suppose, has nothing to do with the actual advertisement commission that advertising agents get. I would like to know to what extent this amount is justified. What is it that they do?

HON H J ZAMMITT:

Mr Speaker, I am afraid that it is virtually impossible to measure the result of public relations. We were asked by the Tourist Advisory Board to double our public relations which we virtually did, from £9,000 we went up to £16,000. Their mission, of course, as public relations is to keep Gibraltar in the forefront as much as possible. We have a very good firm, Eric Williams and Partners, a firm of very high repute in England and they have obviously very good contacts with all the press media, with the radio and television stations, and they are constantly asking and of course my staff here are constantly sending material of events in Gibraltar, of whatever is happening in Gibraltar and they publicise it as much as they possibly can. That is the main function. Advertising is a different thing altogether, they work in close liaison but the mission of public relations is to keep the press and the radio and television and information media informed of current affairs of Gibraltar and using it in the best possible way for Gibraltar's benefit.

HON MAJOR R J PELIZA:

Does the public relation firm provide the Tourist Office with the result of their efforts such as cuttings of articles and so on so that the effect can be quantified?

HON H J ZAMMITT:

Yes, very much indeed, Mr Chairman. We get a monthly report from our Public Relations together with all cuttings of all newspapers, tapes, etc.

HON MAJOR R J PELIZA:

I am just going to say how strongly I object to the very little amount that is being spent in promoting Gibraltar and I say this generally. I am not going to vote against the Head because I think that not enough is being done for tourism which is the second main pillar of our industry.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 24. Tourist Office was agreed to.

Head 25, Trading Standards and Consumer Protection - Personal Emoluments

HON G T RESTANO:

Does the Government have any intention of reorganising this unit.

HON A J CANEPA:

When the new Consumer Protection Officer is appointed, I hope to discuss with him the adequacy of the existing structure. We will see what comes of it.

HON G T RESTANO:

Is it in the Minister's mind to absorb it into another department?

HON A J CANEPA:

There has been a report prepared by Mr John Caetano, in his personal capacity not as Principal Auditor, which has been the subject of consultation with the Chamber of Commerce. Council of Ministers has not as yet discussed the contents of that report so I am not in a position to give more information at this stage.

Personal Emoluments was agreed to.

Other Charges was agreed to.

Head 25, Trading Standards and Consumer Protection was agreed to.

Head 26 Treasury - Personal Emoluments was agreed to.

Other Charges

HON G T RESTANO:

I notice that this again is one department which does not seem to have an electricity and water vote. Is there any reason for that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is in the Secretariat building.

HON A J HAYNES:

On subhead 8. Care of Apes, Mr Speaker. Is there any likelihood of making the Middle Hill Pack, confining them to a cage? I seem to have heard that there is some intention on the part of Government to cage them and is there any provision for this in this Head?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not to my knowledge. I have never heard of it. I don't think there is very close liaison with them.

HON A J HAYNES:

I am very glad to hear that it is an unfounded rumour. The other thing, Mr Speaker, is is there any provision in this subhead for the implementation of an Ape park, which was the subject of a report.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, as far as I am aware the only provision here, and I checked before I came in, is merely to feed those who are on the roll.

HON A J HAYNES:

Mr Chairman, can I have an assurance that they are not going to be caged. I think it would be an absolute disaster for Gibraltar if the apes were caged.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is no provision in here for an ape park, caging them or uncaging them. There is only provision for their food and maintenance.

HON A J HAYNES

Will the Minister confirm that the apes are one of the key attractions to tourists in Gibraltar.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Oh, I agree, we provide money for their food. If there were any provision at all for caging or for a park or whatever, it would be under special expenditure and there is nothing at all. I do accept that they are a major tourist attraction.

HON A J HAYNES:

Mr Speaker, will the Minister confirm that under Care of Apes, the likely increase in tourists visiting the apes may be detrimental to their health if they are overfed?

MR SPEAKER:

No, with due respect, I am not having it.

HON A J HAYNES:

May I ask under Other Charges, Mr Chairman, does the care of apes in any way include veterinary assistance if so required?

HON CHIEF MINISTER:

They are treated at the Royal Naval Hospital, they are on the strength of the garrison.

HON P J ISOLA:

Mr Chairman, the maintenance of the City Hall. I would have thought that would have been under the Public Works Annually Recurrent. Is there any special reason why it should be in this vote and is this the whole Hall?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We have quite a lot of accommodation in that Building, the computer offices and the billing department and in fact part of that cost, which I should have mentioned, is water and electricity for the sections which are in there. In fact, we have under Personal Emoluments taken on the Senior Porter at the City Hall.

HON P J ISOLA:

The other point I wanted to bring up, Mr Chairman, is the

insurance legislation consultancy. From the figures of £3,000, 82/83, and £15,000, 83/84, is that consultancy going rather slowly because I had the impression a long time ago of the appointment of a consultant.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The consultant made a preliminary visit and as a result of this representations were made by the Finance Centre which are being looked at and has yet to be resolved.

HON P J ISOLA:

So why this £15,000 for 83/84?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is put there because we intend to make the appointment, we intend to have the consultants. The question is that we are still sorting out the exact terms of reference.

HON P J ISOLA:

You intend to have a consultant, but what is it, is it going to be a once and for all consultancy?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

HON P J ISOLA:

But it is not an adviser like the banking one.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The reason why the figure is high is that the consultancy includes not only his fee but also hotel expenses when he is in Gibraltar and travelling expenses.

HON W T SCOTT:

Mr Chairman I also notice that under Personal Emoluments there is no grade or salary scale for the Banking Supervisor.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This is true, he does not fall within any of the known appointments linked to the salary of a Banking official in the United Kingdom and originally when the draft

estimates were prepared he was shown still as a banking consultancy but, in fact, it is now a specific post and at the last minute we moved him over into the PE and showed him under the establishment but we have not specifically agreed a salary for him at the moment. We have to do that.

Other Charges was agreed to.

Subventions

MR SPEAKER:

I understand that there are certain amendments to two subheads, which perhaps could be moved.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I expect an amendment, Sir, to subheads 36 and 37 - Hotels - Water Subsidy and Electricity Subsidy. The provision under subhead 36 to be increased from £5,000 to £71,000 and the provision under subhead 37 from £2,000 to £37,000. I also move that the consequential amendments be made to that head.

Mr Speaker then proposed the question in the terms of the Honourable the Financial Secretary's amendment which was resolved in the affirmative and the amendments were accordingly passed.

HON P J ISOLA:

Mr Chairman, under the contribution to the Gibraltar Broadcasting Corporation, I notice that the approved estimate is £730,000 and the revised estimate is £753,000. Is that due to an increase in wireless licences over the year or has there been in fact an increase to the Government subvention because I do not recall having voted supplementary provision during the year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is the salaries to Head 27, the salaries review is taken into the vote. The Honourable and Learned Leader of the Opposition asked me the other day whether the revised figure under salaries included the pay increase which is moved from Head 27, well, this accounts for the increase here.

HON P J ISOLA:

Is it the position that any increase in salaries for

GBC are met by the subvention? So in actual fact the increase of salary in GBC, any increase of salaries are in fact paid by the general body of taxpayers as a result. I understood that we give a subvention to GBC and that therefore if that subvention is to be increased, the authority of the House is required otherwise they are a Government department.

HON CHIEF MINISTER:

I think that this stemmed out of the understanding that the Government, subject to agreeing to the proposals, in this case we have made a very drastic cut which may be reflected in their performance but what we agreed to pay is the difference between what their income is and the expenditure of running it subject to our cutting the subvention, the pay increases that are recommended for the GBC come out of the bulk amount that is made at the beginning and then they make the claim on the basis of parity and they are discussed with the Treasury and also I think sometimes with the Industrial Relations Officer who has to advise on the nature of the increase. Otherwise they would not be able to cover in the subvention any increase in anticipation of the year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think, if I may say so, that on a question of financial propriety, the Honourable the Learned Leader of the Opposition has made a good point. I think that in future we shall have to bring this up as a supplementary.

HON P J ISOLA:

I am grateful for that because the reason I mentioned that, Mr Chairman, is that I remember distinctly when we had the argument in this House about Airtime International, I remember an intervention from the Honourable Mr Bossano about salary re-negotiations with GBC and I certainly got the distinct impression during that debate that if further provision was required for the subvention the House would be asked to vote for it and since we have not been asked to vote for anything, I had assumed that that matter had been resolved within the subvention of the Government.

HON A J CANEPA:

Mr Chairman, the point Mr Bossano was making was that it was bad enough to have the hands of GBC tied down by the need to refer the matter to Government and that it was more acceptable that the House should have a further vote

on the matter, namely, that the conclusion of any wage negotiations with GBC should be a matter not just for Government but also for the House. I think that that was the point that Mr Bossano was making. My own view on the matter is that it would be a better procedure rather than re-allocate from Head 27, that there should be a specific supplementary appropriation by the House.

HON P J ISOLA:

The answer, surely, to the point made by the Honourable Mr Bossano is if the negotiations are carried between the Government and its employees, yes, but if it is between GBC and its employees and it is an independent corporation, obviously it must be done within its subvention and if the subvention is not enough then a case has to be made to the House to provide more money. This seems to be the right way of doing it. Mr Chairman, can I ask the Government because in the General Debate we have had the question of the advertising of Spanish products and Spanish properties and so forth, and we have had a letter written to me saying that the total advertising of Spanish products, if I may use that in general terms, Spanish products includes Rolls Royce and everything else, the houses, flats and all that which is 7%. Does the Government share the view of the Opposition that it is entirely contrary to the public policy as enunciated by the Honourable and Learned Chief Minister in this House only a month ago, that people should be encouraged, that the population should be encouraged to spend their time in Spain, spend money in Spain and invest in Spanish properties? Does Government share the view of the Opposition that it is not in the public interest that this should be encouraged within our very homes in Gibraltar?

HON CHIEF MINISTER:

Certainly, it is not the policy to encourage that but it is also the policy to be careful of how we go about it with the corporation because as I said so many times, we have to try and maintain its independence, not only by the outside world but internally too. Since yesterday, I have received a report from the Gibraltar Broadcasting Corporation of the effect for the month of December, January, February and March of advertising from Spain, or rather about Spanish products because it says: "Included are Gibraltar booked campaign for Spanish products". Technically these are local adverts but it is included in the figure that I have been given and still at that stage it was 7.6% of the total income.

On the other hand, the projected estimates for April 1983, the percentage would go up to 11%, but not because the income in respect of Spanish products is up in fact, it is well down but so is the other one and therefore the percentage is due to the decrease in Gibraltar book campaign so that really in the month of April it became 11%, not because money for advertising Spanish products was going up, in fact they are going down but because the amount of money coming in from advertisements locally have also gone down, it has become 11%. I have just received these figures this morning and I would like to have some time to discuss them with the Financial and Development Secretary but, certainly, if we are going to tell them, having regard to the cuts that we have made, I think I ought to say that the cuts that we made out of the proposed income estimates was £100,000. Whether we can keep to that or not having regard to the nature of the cuts that they will require will have to be considered. It was not a question of negotiations, it was a question of having told them that they had £100,000 less in the general preparation of the estimates. That has resulted, naturally, in a long letter showing great concern and the need for cutting services in order to be able to meet the fact that they have not got that money has to be added, if that is the case, the money that they would lose as a result of these advertisements. I have noted the willingness of Members Opposite to increase, if necessary, the subventions and made up of these advertisements but we will have to see what that involves before we can finally come to the House with any proposals.

HON P J ISOLA:

What I would like to ask, Mr Chairman, is are those figures of advertising, all advertising on GBC, including radio?

HON CHIEF MINISTER:

I would have thought yes. It says expenditure by Spanish companies and GBC and, therefore, it means total net sales, GBC I take it to be the whole of the corporation and therefore includes the radio programmes, radio advertising, the bulk of which I think is certainly local. I have not heard much advertising on radio of Spanish products.

HON P J ISOLA:

This is precisely the point, Mr Chairman, I wish to make. And that is that certainly we would not believe those figures if they were referring to television. We would

not believe it because I think all Honourable Members, certainly on this side of the House, I don't know how frequently Honourable Members on that side of the House watch Gibraltar television, and it is quite clear to us that the time on television advertising Spanish products, whether it is booked in Gibraltar or not, we are not interested in that. Whether it is booked in Gibraltar or booked in Spain or whether it is advertised by a Gibraltar company, we do not make any distinction but our view is that it is a lot more than 11%, nearer, 50% at least as far as television is concerned. What we question is: how can a Government, the Chief Minister of Gibraltar supported by the Opposition, make an appeal to the public and at the same time how can this same House then vote £535,800 plus the wireless licences in other words over £700,000, to do just that. We must make decisions on these matters. When the Honourable and Learned Chief Minister speaks of the independence of GBC, we agree with him entirely but the fact of life is that it is not independent, it is heavily dependent on the general body of taxpayers represented in this House, who have through their elected representatives asked for public restraint in expenditure in Spain. And yet the people whom they subsidise are in everybody's homes. As far as we are concerned unless we can get very, very satisfactory answers and we are not getting them so far that is why I asked the question whether the Government agrees or does not agree, we cannot vote in favour of this because we cannot vote in favour of something which is entirely contrary to what we voted in favour of or we spoke in favour of only a month ago. As far as making it up, let me make the position of my side clear. I do not want to be accused of anything afterwards. As far as we are concerned, if it can be shown that without the advertising of Spanish products, because last night, Mr Chairman, let me say that last night on Gibraltar television the advertisement of Spanish products dropped dramatically. It was very noticeable, until the last programme we got all sorts of new adverts. We would not be a party to dropping Spanish advertising as a means of getting the revenue or getting a subsidy which they have failed to get apparently from the Government. If it is a genuine case and we are satisfied of it, of course we will vote for the extra expenditure. But let me be clear that it has to be justified as well.

HON CHIEF MINISTER:

It is precisely because one has to look at this carefully that we are not taking any hasty decisions on the matter. It is all very well to say that it is independent but it is dependent on our voting. I think that is the reason why

Members must take more care to ensure that the board is independent from political influence, if I may put it that way, from either side. We could say that perhaps because we have a majority here we should have more say in their independence but I have always ensured and will continue to ensure that they can carry out their business, subject to the Directions, in a way that does not deprive them, I think very few people would serve in the board if they felt that they were under direction other than the Governor-in-Council's Directions which are the subject of consultation with them and which they readily accept. I do not know about the difference last night. Certainly, I am quite sure that however much influence this House has, I do not think it can influence the night programme by whatever is said in the morning in the House of Assembly. The increase in -percentage is due to the decrease in Gibraltar booked campaign so that what is happening really is that because perhaps of the recession there is less advertisement locally, the others are more highlighted. I don't like them, I said that from the beginning. I hope that we can see how we can dispose of them but I would like a little time to look at the figures and I shall have consultations with the Honourable Member. In the meantime we have to deal with a very long letter of the corporation where they say how they can carry out their duties with the severe cuts that we have imposed on their proposed budget to the extent of cutting all sorts of services such as the long hours in the winter and the afternoons and week-ends and so on. In the final analysis, if they have to provide the service they have to do it with the money they have available, if we give them less money they will have to do it that way. If we tell them not to do this and that if they do it the subvention will be curtailed then, of course, there will be further cuts. Because they are independent in that respect, we have no control in saying how they should run their business. Once we see their estimates we carry out an intelligent approach to it and we say that they have to suffer like all other departments in a lean year a substantial cut. But I shall certainly look further into the matter, I cannot go any further now.

HON P J ISOLA:

Well, Mr Chairman, we will vote against. It is quite clear to us that the Government are not coming out clearly on this matter. There is just no way that the public will take seriously appeals for restraint in expenditure when a heavily Government subsidised corporation does not.

On a vote being taken on Subhead 30 - Contribution to Gibraltar Broadcasting Corporation the following Hon 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 Zammit
The Hon R J Wallace

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon D Hull

Subhead 30 was accordingly passed.

HON A J HAYNES:

Sir, Annual Grants-In-Aid. I notice there is only £300 for the Commonwealth Institute, is that in fact all that is going to be sent to the Commonwealth Institute.

HON CHIEF MINISTER:

That has nothing whatsoever to do with the question of the show there. This is purely a contribution for the ongoing costs of the Institute as a whole. The question of the display there is a separate matter.

HON A J HAYNES:

Where would I find the display contribution?

HON CHIEF MINISTER:

When it is decided what is to be done we will come for money to the House.

HON MAJOR R J PELIZA:

Subhead 33 - John Mackintosh Hall. The annual appeal from me.

Whether at election time those participating candidates will be able to make use of Mackintosh Hall to address the electorate as I think there is no impediment in any other places I can think of in Gibraltar except that place which is again heavily subsidised by the Gibraltar Government. I wonder whether the Minister can say whether anything has happened since last year which has perhaps enabled him to change his mind.

HON MAJOR F J DELLIPIANI:

Mr Chairman, I have listened to the Honourable and Gallant Major's appeal and I will take his sentiments to the Board, to decide, probably on a trial basis, to see how it works.

HON MAJOR R J PELIZA:

Does the Minister think it might help if I were to write to the Board?

HON MAJOR F J DELLIPIANI:

If you would like to write with your suggestions. I am only worried slightly that we want to make it quite clear that because we do the count there that it is completely independent.

HON MAJOR R J PELIZA:

I appreciate that is the case up to a certain date because they have to prepare the place for the count, but I think up to then I can see no objection.

HON MAJOR F J DELLIPIANI:

Mr Chairman, as I said, I will take it to the Board and it is up to the Board to consider.

MR SPEAKER:

Any other matter on subventions.

HON A T LODDO:

Yes Mr Chairman. I see subhead 35, Contribution to the Gibraltar Regiment. Is it exclusively to the Gibraltar Regiment or does that also include HMS Calpe?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is exclusively to the Gibraltar Regiment as it says there.

HON A T LODDO:

Mr Chairman, do we make any contribution to HMS Calpe?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not to my knowledge, it is a Royal Navy establishment.

Subventions was agreed to.

Special Expenditure was agreed to.

Head 27. - 1983 Pay Settlement was agreed to.

Head 28. - Contribution to Improvement and Development Fund

HON P J ISOLA:

Could I ask one question here on the contribution. The deficit of £3million as at 31st March 1983, that has been borne by the Consolidated Fund?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, it is a loan, as it were, from the Consolidated Fund to the Improvement and Development Fund. As I have mentioned in my budget speech as interest rates are high and also until I know the outcome of our submission to the ODA for the funding of the distillers by ODA funds, I can't go to banks to borrow money and say that I want it for this and that so I funded development from the Consolidated Fund in the meanwhile.

HON P J ISOLA:

How did it run into a deficit, was it that we did things that we were hoping the British Government to pay for?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, sir, it was mainly that we have had a very heavy over-run of costs in the approved projects. I mentioned in my speech that of the £10 million that we are going to borrow, about £6 million is for ongoing projects which will cost more.

Head 28. - Contribution to Improvement and Development Fund was agreed to.

New Head 29. - Contributions to Funded Services.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman Sir, I beg to move the inclusion of a new

head of expenditure, Head 29, - Contribution to Funded Services. This gives effect to the budgetary contributions announced in my budget statement. It is intended to provide as follows: Subhead 1, Electricity Undertaking Fund - £559,200; Subhead 2, Potable Water Service Fund - £93,200; Subhead 3, Housing Fund - £1,028,100. I also move that the consequential amendments be made.

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

Head 29. - Contributions to Funded Services was agreed to.

The House recessed at 1.00 pm.

The House resumed at 3.35 pm.

MR SPEAKER:

May I remind the House that we are still in Committee and that we now move on to the Improvement and Development Fund.

Improvement and Development Fund - Head 101, Housing

HON W T SCOTT:

Mr Chairman, undersub-head 1 Varyl Begg Pitched Roofs and Related Works. I think we are under the impression that this contract was completed some time back. Might I ask the nature of the work still to be undertaken?

HON M K FEATHERSTONE:

There is not any work that has to be undertaken it is a re-vote for monies that have still to be paid.

HON W T SCOTT:

Does the same apply Mr Chairman, to sub-head 3, 5, 6 and 7.

HON M K FEATHERSTONE:

Yes, that is correct.

HON G T RESTANO:

Can we know the result of the investigations on Engineer House.

HON M K FEATHERSTONE:

These were some bore holes that were put down. An initial number were made, they produced a varied effect of sub-soils and more were required and based on the information received we shall be able to design the actual building, etc.

HON A J HAYNES:

Vineyard Site. - Phase I. Can the Minister tell us how many units will be derived from this and can he give us some idea of what Vineyard Site is, it is modernisation, is it not?

HON M K FEATHERSTONE:

No, Sir, this is a new building. The actual works to be done this year will not be any building of any houses, it will be mainly the services, the new roads that will have to be laid and thesewers and what have you being put in. The first phase of the housing will be started actually next year and we are not yet certain how many houses it will envisage. It is fluctuating between 65 and 77. We have had some slight alterations given to us from the Housing Department as to the mix they require and we are also having a second look at the actual design to see if we can get more in the same space.

HON G T RESTANO:

All these reserved votes (R), and we have had an indication that the British Government does not want its own contribution to the Development Programme to come out of its own fund, if it continues with that policy will the Government be funding these 5 items?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is subject to borrowing and that is why they are reserved. We have got to borrow in part but we have not been able to borrow yet the actual funds. As I explained to the Honourable and Learned Leader of the Opposition this morning, until we know the answer on the distillers, whether ODA are prepared to fund them, we cannot go to the banks and tell them which projects we want to fund with this borrowing.

HON P J ISOLA:

The £1½ million is for that, the £1½ million that has actually been voted?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That has been voted.

HON A J HAYNES:

Engineer House demolition. Does this involve the complete destruction of that property or is that partial?

HON M K FEATHERSTONE:

Yes, it is demolition of all the standing area including what is called the Model House, levelling the demolished site to make it into a temporary car park.

HON G T RESTANO:

Can the projects be pin-pointed which are going to be paid for by the £1½ million?

HON M K FEATHERSTONE:

It is basically some on-going projects. Rosia Dale, too, which wants £600,000 of it, and some of the other items on later pages.

HON G T RESTANO:

Are they all on housing?

HON M K FEATHERSTONE:

Yes, mainly.

HON G T RESTANO:

Which items are not on housing, Mr Chairman?

HON M K FEATHERSTONE:

I think there is also some of the money for schools.

HON A J HAYNES:

Mr Chairman, Tower Blocks - Phase II, £500,000 is reserved. Can the Minister give us a clue as to what that money will be spent on. Is this the external repairs?

HON M K FEATHERSTONE:

Yes, I do not know if you have inspected the Tower Blocks, I think it is Constitution House. If you look carefully at it you will find that the top 3 floors on the South West Corner have been cladded. This is a type of plastic cladding on the outside which has made the walls much more waterproof than they were before. This has been given at least 18 months of testing and has proved to be very successful. The idea is to continue that cladding on further parts of Constitution House and also the top storeys of Referendum House and then the next stage will be to do a further amount and the final stage will be to do the balance.

HON A J HAYNES:

Does this indicate that the cement was of inferior quality or something of that nature, or what?

HON M K FEATHERSTONE:

Well we have had a lot of debate, if the Honourable Member wishes to look up in Hansard, he can probably find it all. It was partly that the rendering was less fixed than it might have been. At certain stages the stirring of the cement as it is poured round the beams was not as good as it could have been, and it left cracks that water could get through and could penetrate.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I wonder if I might clarify a point about the £1.5 million transfer from the Consolidated Fund to the I & D Fund. It is not for projects which are reserved but for projects which have been started and on which we have been using money from the Consolidated Fund. Those there is an (R) against will depend upon us borrowing on the London market.

Head 101, - Housing, was agreed to.

Head 102 - Schools

HON A T LODDO:

Subhead 1 Westside Comprehensive, I notice that in the estimates to 1983/84, there is another £170,500, what exactly is this going to be spent on?

HON M K FEATHERSTONE:

This is also a re-vote. What happens is that when you have

a big account like this, the last amounts of money are not paid until all the little differences are cleared up, etc.; and so that money is reserved. It was not cleared up last year or it would have been paid last year so it has been revoted into this year and when the final accounts from the contractors have been received and approved then the money is there to pay them. Whilst I am standing up, Sir, perhaps I could mention that Item 3, the Bayside Comprehensive School is probably the other part where most of the balance of the £1,500,000 is being spent.

Head 102; - Schools, was agreed to.

Head 103, - Tourist Development

HON A T LODDO:

The Air Terminal Extension and Improvements. Can we have some details of the £49,050 that is going to be spent.

HON M K FEATHERSTONE:

A similar situation of the final accounts not yet being finalised. It is a re-vote as you can see.

HON G T RESTANO:

So nothing new is going to be done.

HON M K FEATHERSTONE:

No, nothing new.

HON G T RESTANO:

Can we also have details of the Urban Improvements.

HON M K FEATHERSTONE:

That is the first stage of pedestrianisation that we hope to set in motion. It may be a part of Main Street, it may be part of the Piazza, but it will be definitely somewhere between Engineer Lane and John Mackintosh Square including the Piazza.

HON G T RESTANO:

And that will cost £½ million?

HON M K FEATHERSTONE:

That is what it is estimated to cost.

HON P J ISOLA:

Does this include paving and things like that?

HON M K FEATHERSTONE:

It would be basically removing the present raised pavements at the two sides of the road and making the whole road into a slightly curved surface and then street furniture such as flower stands and what have you etc., and also a new fountain in the Piazza.

HON P J ISOLA:

Has the Government considered just tarmacing the surface in a red colour or something rather than going into paving that is not necessarily durable and will look ugly after a while and just tarmac in red, because I have seen that in places and it is very attractive and I would imagine it would be much less expensive.

HON M K FEATHERSTONE:

The things that have been looked at are very durable, they are being used in many other cities in Britain and one of the advantages is interlocking bricks. One of the advantages is that if you wish to get to the services underneath you only have to lift up a few bricks rather than go through with drills and what have you and ruin a whole mass of tarmac.

HON A J HAYNES:

Mr Chairman, if you have a new asphalt road you can have direct access to the sewers and all other manholes that are presently available. Is the Minister saying that he is going to lay bricks over all the manholes and other such things and would he have to raise the manholes?

HON M K FEATHERSTONE:

No, but you will have to move some of the actual drain holes at the moment which are at the side of the road. If you have a curved surface your drain hole will have to be in the centre but your water will naturally move to the centre.

HON A J HAYNES:

Will the Minister make enquiries as to the viability of just putting a new tarmac which will enable cars, if necessary, to go up the road whenever that should occur and would it be as attractive as any

pavement.

HON M K FEATHERSTONE:

I am sure that the engineers in my department will carry out exhaustive enquiries into the most economic system, not economic in the actual putting down, but in the long term, the most durable and also one that is going to give reasonable viability for traffic that may have to go up the road such as lorries, etc. Paving tiles, I am informed, are laid on sand and can be changed quite easily without breakage when any replacement is required.

HON A J HAYNES:

Will the Minister nevertheless accept that to just tarmac the Main Street area would be far less difficult and would be a proposal which in our view would meet the requirement of aesthetics which go with pedestrianisation and at the same time enable you to do it without great expense and with keeping your options open for a road.

HON M K FEATHERSTONE:

Sir, I think sometimes one falls into the trap that persons who are not experts in this field tend to think they know more than the actual experts. We are getting advice from many areas where there has been pedestrianisation schemes and in most of these areas they are using this interlocking type of brick. I commend the Honourable Member when he goes next to London to have a look at Leicester Square which is one of these areas, Maddox Street, which is another area, we have also been to Lincoln, to Oxford, to many areas, and we are getting expert advice.

HON A J HAYNES:

Well the next thing Mr Speaker, on the Piazza, it was very reassuring that the fountain is going to go ahead.

MR SPEAKER:

A fountain, he said.

HON A J HAYNES:

Well, the fountain.

MR SPEAKER:

No, there is quite a difference.

HON A J HAYNES:

Well, a fountain, Mr Speaker, is going to hopefully improve the Piazza. Is there any other plan for the Piazza in terms of refurbishing it in another manner?

HON M K FEATHERSTONE:

Yes, there are quite a lot of plans for the Piazza. In fact I think one of them was on show at the exhibition that we had some little time ago of Public Works plans. The whole refurbishing of the Piazza will be to make it into a far more open area in the centre of town, with less walls and concrete around, and it should be improved very much.

Head 103 - Tourist Development, was agreed to.

Head 104 - Miscellaneous Projects.

HON G T RESTANO:

Sub-head 1, Re-siting of the Ice-Box, a revote £320,000. What is the present site that the Government is taking over going to be used for?

HON M K FEATHERSTONE:

I believe that that is going to be the future area of the Government Stores and Bonded Stores which will release the whole Waterport area for development purposes.

HON G T RESTANO:

Presumably, a certain amount of money will have to be paid for the reconversion. Why is that not in this vote?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, we do not yet know how much it is going to cost. The position is that the Ice Box will be vacated tomorrow and we are having a meeting to indicate what work we require to be done inside for Customs. We will then get an estimate and we will be coming back to the House for funds to carry out the work as quickly as possible. There is some urgency in this because two developers who have been here during the past two weeks have shown great interest in the development of that site.

HON W T SCOTT:

Mr Chairman, can we have some indication as to when the Vehicle Examination Centre will be completed?

HON M K FEATHERSTONE:

We are hoping to have this completed by the end of June. It will bring with it a certain number of, I won't say difficulties, but alterations in the actual programme of testing of vehicles so that they can actually be tested the whole year round rather than just at short specific periods, but that will come up in due course.

HON W T SCOTT:

Mr Chairman, subhead 3, Sand Quarry, £135,000. Presumably, all this amount is from Robertson Research.

HON M K FEATHERSTONE:

Yes, Sir.

HON W T SCOTT:

I seemed to have missed it in the items of revenue.

HON M K FEATHERSTONE:

We received it last year, I think.

HON W T SCOTT:

Might I ask what progress the Government has made in soliciting the assistance of presumably some other consultants to ensure that the sand is brought down from the high slopes.

HON M K FEATHERSTONE:

We have had a consultant paid by the Quarry Company, actually, who is looking into the possible method of getting sand from the upper areas to the lower areas. These are at the moment being fully looked into and quantified and then we will see which of the three possible methods is the most viable together with the best in price.

HON W T SCOTT:

In relation, Mr Chairman, to what the Government has already spent on this reclamation scheme, or rather recovery scheme, can we have an assurance from the Minister that we will not keep on spending money without having a successful project.

HON M K FEATHERSTONE:

That, of course, is the intention, Sir, yes.

HON G T RESTANO:

Who is paying for these new consultants?

HON M K FEATHERSTONE:

I just said the Gibraltar Quarry Company.

HON G T RESTANO:

Should not Mr Chairman, this be the ODA? After all the ODA recommended Robertson Research which proved to be such a fracas and although the Government has obtained £135,000 in return, surely, the ODA should have a certain responsibility in the new process of construction.

HON M K FEATHERSTONE:

No, I think the ODA had their share of the whole deal and they have now got themselves out of it completely. They have had their share of the whole deal and they have now got themselves out of any further commitment.

HON G T RESTANO:

But shouldn't the Government press on this one?

HON M K FEATHERSTONE:

It is rather futile pressing on something when you know you are going to be told a blank negative. We have mentioned it to them on several occasions and they have said "Well, we think that we have done our share, the rest is up to you".

HON A T LODDO:

I notice, with a little satisfaction, Sub-head 7 - Military Museum. I notice that there is a reserve of £150,000, the rest balance to complete. Presumably we will be hoping for some aid. Can the Minister say whether in fact this Military Museum will get off the ground sometime this year?

HON M K FEATHERSTONE:

On the basis that the (R) becomes available to us, as the

Hon Financial Secretary has said, it is subject to our being able to raise the loans to provide the money, it is hoped this year to get it started and to finish it by next year.

HON G T RESTANO:

The Government Offices - £300,000. What is that in respect of?

HON M K FEATHERSTONE:

These are a number of different moves of Government offices, they vary to some extent, the main ones are the refurbishing at least of the ground floor of St Jago's School to house the Income Tax Department which at the moment is housed in very expensive private rented accommodation. After the St Mary's School extension has been completed to refurbish St Mary's School as Government offices and other minor areas that come along including Loreto Convent finalisation as Government offices for certain officers and certain sections of the Secretariat itself.

HON G T RESTANO:

I know that the Income Tax Department is going to St Jago's. Which department is it intended should go to the Loreto Convent and which to St Mary's?

HON M K FEATHERSTONE:

I think it is not fully decided but I think in the Loreto Convent the Deputy Governor's office is going there, the Chief Minister's office, the Administrative Secretary's office and possibly some others, it depends on the total space that is available. I don't have all the details, there is a Committee looking into it and seeing of the bids that are being made which are going to be the most preferable. The idea is to get those departments which work together to be able to stay together.

HON G T RESTANO:

And what about St Mary's?

HON M K FEATHERSTONE:

St Mary's initially will be for the Housing Department and whatever area is over will then be available for some other department.

HON W T SCOTT:

Mr Chairman, I would like to ask on Sub-head 6 - Customs/Immigration Offices, where there is £80,000 reserved, the details of that.

HON M K FEATHERSTONE:

I am not saying that we are fully committed to this because there are other thoughts being mooted at the moment, but the intention was to move the Customs Office which at the moment is at Waterport down to the old Port Offices. If this comes off then of course this would be these £80,000.

Head 104 was agreed to.

Head 105 - General Services

HON G T RESTANO:

Mr Chairman, the last item, Sir Winston Churchill Avenue Footbridge. Is it intended to construct that this year?

HON M K FEATHERSTONE:

Yes, Sir, the order will be given almost as soon as the money is voted in this House. We have all the plans ready and we already have the tender from the firm who will be given the actual contract to provide the bridge. We have gone out to four or five firms and we have got the most competitive and most viable bridge.

HON G T RESTANO:

Was the tender a public tender or was it a selective tender?

HON M K FEATHERSTONE:

No, it was a selective tender to about five or six firms in Britain which manufacture this type of equipment.

Head 105 was agreed to.

Head 106 - Potable Water Service

HON W T SCOTT:

Mr Chairman, I notice on Sub-head 3 - Desalination Plant at Waterport, that it is subject to approval by ODA but yet, as I understand it, that contract has already

been awarded.

HON M K FEATHERSTONE:

Yes, the situation is that we have asked ODA whether they would be good enough to fund all or part of it, if they don't we will have to fund it ourselves but it has already been given.

HON W T SCOTT:

Both distillers, I understand there are two distillers involved.

HON M K FEATHERSTONE:

No, we have the option to take a second distiller up until the end of April, that will still be decided in due time.

HON W T SCOTT:

So, in fact, if the Government does not receive a reaction by the end of April does that mean that it will take up the option or not take up the option?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

First of all, we have made it quite clear to ODA that we must have an answer by the end of April to enable us to take up the option because it might be saving us money on taking up that option. If the ODA do not agree to fund the whole of the project, two desalinators, we would not be able to fund the second desalinator ourselves from our own funds and so we only go for the one. The reason why we have been able to start is because there is a procedure called "if and when" in that we had got in a proposal to ODA for a desalinator and they knew that we were going ahead and they didn't object.

Head 106 was agreed to.

Head 107 - Port Development

HON W T SCOTT:

Mr Chairman, Varyl Begg - Sea Wall, Sub-head 3, £10,000. Has the work been completed?

HON M K FEATHERSTONE:

No, Sir, this is still to be finished this year if we get around to it. It is completing the sea wall along the edge of Varyl Begg. I think we have got as far as

Hermes House, the rest is still very rough and we gradually move along as and when we can.

HON A J HAYNES:

Mr Chairman, on the Causeway. Can we have a clearer indication of what exactly the Government propose to do this year?

HON M K FEATHERSTONE:

The initial idea was to build a road or causeway outside the present bridge and to move all the services round into the road but since we have had later information from MOD as to what they consider could be done with their services, a new look has been actually taken at the whole project. I think now the services will be able to carry on as they were underneath the bridge even though the bridge is taken away and the causeway itself will go less far out and be less complicated. It is still subject to a certain amount of negotiation with MOD to decide exactly what they want since we were asking them to pay for the movement of their services.

HON A J HAYNES:

Mr Chairman, I am not quite sure. Does this mean then that the proposals might result in just an alternative to the bridge rather than the reclamation of land that we initially expected to take place?

HON M K FEATHERSTONE:

No, Sir, there were two projects. The first project was the actual alternative to the bridge and that is what is called the causeway. The full reclamation of the Waterport Basin is another project which we still have under study but which is not put down for expenditure at the moment. It will depend to some extent if we have a full opening of the frontier and a demand for a ferry terminal with roll-off/roll-on facilities.

HON A J HAYNES:

Will the construction of a causeway as I take it is now envisaged which will not provide a terminal, preclude Government from making a terminal at a later stage?

HON M K FEATHERSTONE:

No, it will actually help towards it,

Head 107 was agreed to.

Head 108 - Telephone Service

HON G T RESTANO:

May I know, under Sub-head 4, how many public telephone booths are to be introduced in Gibraltar?

HON DR R G VALARINO:

Sir, this is really the fact that the demand for pay phones has increased substantially with the introduction of IDD and local call metering. More public telephone booths are needed but it also includes bars and restaurants, clubs and shops requesting portable pay phones. The amount there is for ten portable payphones, three anti-vandal pay phones and ten rent-a-type pay phones. I think we intend to increase the number of telephone boxes within the next financial year by about two to three.

HON G T RESTANO:

These are telephone booths, are they, like the ones that already exist?

HON DR R G VALARINO:

Yes.

HON G T RESTANO:

Where are they going to be placed?

HON DR R G VALARINO:

I have said in the House previously, Mr Chairman, that I am unwilling to spend public money to put a telephone kiosk where it will be vandalised, therefore, my aim is to put telephone kiosks where somebody will be able to look after it for the larger part of the time and therefore the amount of vandalism is cut down. We have got to try and ensure that these telephone boxes have got a certain measure of security about them. We have put some lately and we intend to put another one, as long as the Planning Commission gives us the go-ahead, we intend to put another one opposite the Roman Catholic Cathedral, there is already one there but one on the other side, and we applied for one at Mackintosh Square which was turned down, and we want to put one at the entrance to Main Street by Casemates. There is already one at the moment just off the frontier gate so that anybody who wants to ring for a taxi late at night and

there are no taxis there, they are able to get a taxi, people coming from Spain.

HON G T RESTANO:

The Minister said that the application to put one in Mackintosh Square had been turned down by the Planning Commission, were any reasons given?

HON DR R G VALARINO:

No real reason given except that a telephone box there would look unsightly, this was the reason given by the Planning Commission.

HON AT LODDO:

Mr Chairman, is there any chance of having a telephone kiosk to replace the one at Europa outside Prince George's block. There is a phone booth there which has been completely vandalised but at Europa, as far as I know, that is the only or would have been the only public phone. Is there any plan to have one up there?

HON DR R G VALARINO:

Mr Chairman, that one and if I may refer to the one in Varyl Begg, because there is one in Varyl Begg, they are both heavily vandalised. We put in a telephone and three days later the telephone apparatus itself was cut off and taken away and it is useless, so we don't want to waste money. We would like to be able to put one at Windmill Hill where the Services would be able to keep an eye on the box or find a place near a GSP Post where the phone would be less vandalised but we cannot keep on putting telephone boxes, having them vandalised and repeating the process again and again.

HON W T SCOTT:

Would Government consider installing one, Mr Chairman, at Waterport either a public booth on its own or perhaps even within the confines of the Customs building because I think there is a requirement there?

HON DR R G VALARINO:

Yes, Mr Chairman, I have given consideration to that one and my only reservation is because I didn't know whether Waterport was going to remain there, the site I mean, but my idea was to put one at Waterport in the small pavement between the Police Station on the left hand side and the Revenue on the right hand side and to put one there

and certainly people from Varyl Begg and people in the neighbourhood, tourists coming in, would be able to use it.

HON W T SCOTT:

Mr Chairman, Sub-head 3 - Purchase of Vehicles and Plant. I am a bit puzzled because when a department has a requirement for a vehicle it normally appears under that particular Head but here we seem to be asked to vote money in under the I & D Fund for the Telephone Department rather than on the Telephone Head.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This is a continuation of a project that started. One will see that the figure £28,935 is there, £18,000 is the actual expenditure to 31/3/83, £10,000 left. We had to leave it in this vote but it is the sort of thing which normally we would in future put into the recurrent estimates.

HON DR R G VALARINO:

If I may help you further. One is the replacement for G29357 which is urgently needed and finally a compressor which is now twelve years old needs urgent replacement.

Head 108 was agreed to.

Head 109 - Public Lighting

HON W T SCOTT:

Can we have an indication, Mr Chairman, on the areas covered?

HON DR R G VALARINO:

Certainly, Mr Chairman. The areas covered in the General Improvements, Phase III, the overall cost of the project remains at £12,500 and the amount required to complete the project is £8,000. The areas are as follows: Lime Kiln Steps, Buena Vista Road, Glacis Estate and Varyl Begg Estate.

HON W T SCOTT:

But the Minister has mentioned, Mr Chairman, areas which have only recently in the last ten or twelve years been built and I would have thought that the requirement for public lighting there would have been done at that time,

wasn't it planned properly originally?

HON DR R G VALARINO:

Mr Chairman, Sir, he is quite right in saying that some of the areas have been recently built but what we feel is that because of the position of certain areas certainly extra lights could be installed and this is why we have put in these four small votes to be able to cater and improve the public lighting in these places.

Head 109 was agreed to.

Head 110 - Electricity Service

HON G T RESTANO:

Mr Chairman, I notice that the estimated cost of the Waterport Power Station is now put at £7.9m whereas last year in the estimates we were told that the figure was £7.14m, can we know the reason for the difference?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There were negotiations with the Hawker Siddeley Power Engineering because they had claims against the Government for instructions given during the course of the work, that we wanted certain changes made which happens in every large contract and furthermore originally we were only going to buy the spares for the one engine but we decided that we would go for spares for two engines because we are getting them at a very attractive price and it was worth getting them in advance. We had claims against the company because they owed us damages for delay in handing over the building and the engines and there were negotiations, they were claiming from us something in the region of well over £1m and we were claiming even more from them, in fact, we eventually settled but the additional cost is for additional spares and for extra works that were done during the course of the contract at the request of the Government.

HON G T RESTANO:

Can I know what these changes were?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I haven't got the details with me but we could send the details to the Hon Member.

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HON G T RESTANO:

Is any of the cost of Hawker Siddeley managing the Station included in this increase in the vote?

HON DR R G VALARINO:

No, none at all.

HON G T RESTANO:

Can I know what is the extra £571,000 that is going to be spent on the project this year? What does that represent?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I mentioned, I think, that the running of the Station since we had taken it over, had been put to an advance account and up until the 28th February the cost of running the Station would go to the project and thereafter they would go on to the recurrent budget but meanwhile I put them into an advance account and £1m is the amount on the advance account that would go to the project.

HON G T RESTANO:

If I can get this correctly, the Government considers that the amount to be paid to Hawker Siddeley for managing and administering the Power Station before Government takes over is going to cost £591,000, is that correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it is not the entire amount, there are also additional amounts to be paid for the actual project completion but included in that amount of £1m in an advance account for the running of the Station.

HON G T RESTANO:

What is the estimated cost then, if I may ask, of Hawker Siddeley running the Station because I think contractually we were told yesterday that Government could have taken over in February so how much is the non-reaching of the settlement in the Steering Committee going to cost the Gibraltar taxpayer?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, how long is a piece of string? I can only say that up until the end of February I have got a figure in an advance account of £1m, that is what it has cost us up to that date. Yesterday in the House someone said

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and how much did it cost us since February and I did a quick calculation and said seven weeks at £19,000, £133,000. Why I say how long is a piece of string is because when is the Committee going to finish its work and when are we going to take it over, that is the question that I cannot answer.

HON G T RESTANO:

Can I ask how long Government is going to tolerate such a position? If we are in the same position in six months time will Government still be saying, well, it is as long as a piece of string. Surely, this at a political level has to be taken by the Government, how long is it going to tolerate such a position?

HON CHIEF MINISTER:

If I may say a few words, Mr Chairman. The Steering Committee, I was remarking yesterday, despite the expense, I was remarking yesterday to the City Electrical Engineer that just as well that none of the people I approached to Chair the Steering Committee accepted because I think it would have been work well beyond their powers unless they were to devote a considerable amount of time, it has been an exhausting problem and it isn't yet finished. We do see the end in sight but it is very difficult to say so many weeks and then to be found that it is a week more and then to be asked questions why did we say that. I have been keeping at a distance though I have been keeping an eye on this thing. From time to time, the Chairman, Mr Ray Edwards, reports how he sees the matter but I purely listen to him I don't argue because it has nothing to do with me. He is an independent Chairman but he keeps me informed, he tells me of the extent to which progress is or is not made and of the immediate prospect and it is not an open-ended matter, I cannot commit myself to a time but we are getting very near and it is necessary that it should be finished very quickly. We may one day have to debate this matter if it is so desired and of course then I would have all the particulars and so on but in the final analysis we may find ourselves with a Station, despite all the difficulties, with reasonable work practices, with standard procedures, with avoidance of all the problems that led us to so many difficulties in the past because of the nature of the structure of the department and the pressure on certain sections and so on. That is what really the final result of the Steering Committee would be and I am glad to be able to report that the tone and the attitude of the workforce, I say the workforce not only Trade Unions leaders because

they have had to be ad referendum to them, it is a very close knit set of people, have changed dramatically in reasonableness of attitudes to work than from the time that the Steering Committee work started. I am looking at it purely in the overall interest as I have to do and not in the interest of the individual Minister or the department. I say with all sense of responsibility that when the count is taken it will be seen, whether it was expensive or not is another matter, that the aims that have been set out, the patterns that have been set out will well be worth it for the secure future running of the place in reasonable terms and not in terms almost of pistol in hand.

HON G T RESTANO:

Yes, Mr Chairman, I am sure that those are very laudable aims. Of course it is in everybody's interest that the Station should work well in the same way as it would have been admirable if the old Station had worked well as well but if this continues and continues and continues and there is no point in time when an agreement is reached, how long are we going to keep paying so much money for Hawker Siddeley to run the Station and so much money for the Chairman.

HON CHIEF MINISTER:

I have tried to answer that question.

HON G T RESTANO:

I would like to know for how long is Government prepared to pay this money before we come to an agreement. There has to come a break time where Government has to say that they cannot continue paying any more at this rate.

HON CHIEF MINISTER:

I thought I had made as reasonable a general statement as I can and no amount of further questions will be able to make it easier for me to do so. I have explained to the House, I have put a clear situation as I see it of the matter which is as much or more concern to us because it is our direct responsibility.

MR SPEAKER:

And it has been the subject of debate already.

HON CHIEF MINISTER:

I am giving an honest account or I would say an honest

brokers account of the situation as I see it for the satisfaction of the Hon Members opposite but no more asking how long is a piece of string can make me say how long it is going to be.

HON W T SCOTT:

I have one on Sub-head 1, Mr Chairman. Can I ask the Minister if engine No. 9 is operational at the moment?

HON DR R G VALARINO:

Mr Chairman, Sir, engine No. 9 has been stripped down.

HON W T SCOTT:

Is there any likelihood of it being re-assembled and being put into operation before the money is spent on its foundations?

HON DR R G VALARINO:

No, Mr Chairman, in fact I said that when engine No. 9 was stripped down due to a re-building due to numerous oil leaks, it was found that the foundation had suffered serious cracks probably because of this. The foundation in which the engine sits has got to be re-cast completely and this is the figure for the re-casting of the foundation therefore the engine would be impossible to re-build on a foundation which is cracked and one would have to do the foundation first and then re-build the engine. This is why there is an (R) behind it, the £67,000, and this is only for the foundations not for the re-building. We have applied to the ODA for a third engine at Waterport and until a decision is reached whether or not we shall get the third engine then the money will be reserved.

HON W T SCOTT:

What is the capacity of No. 9 engine?

HON DR R G VALARINO:

Two megawatts.

Head 110 was agreed to.

MR SPEAKER:

I imagine the Hon the Financial and Development Secretary will now wish to make the necessary amendments to Part I of the Schedule, the Consolidated Fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Chairman, Sir. I beg to move that in Part I of the Schedule provision for the following three Heads of Expenditure be increased as follows: Head 16, Port by £25,000 to £679,100. Head 20, Public Works Annually Recurrent by £10,000 to £7,764,500. Head 26, Treasury by £101,000 to £2,072,300. I also move that provision of £1,680,500 be made under a new Head of Expenditure, Head 29, Contribution to Funded Services.

MR SPEAKER:

And I imagine that the grant totals should be consequentially amended.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir. Thank you.

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

The Schedule, as amended, stood part of the Bill.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that the words "forty-one million seventy-eight thousand six hundred pounds" in the last two lines of Clause 2 be deleted and the words "forty-two million eight hundred and ninety-five thousand one hundred pounds" be substituted therefor.

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

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that in lines 2 and 3 of Clause 4(1) the words "forty-one million seventy-eight thousand and six hundred pounds" be deleted and the words

"forty-two million eight hundred and ninety-five thousand one hundred pounds" be substituted therefor.

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

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

The Long Title

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that in The Long Title the words "fifty-one million ninety thousand five hundred and seventy-five pounds" be deleted and the words "fifty-two million nine hundred and seven thousand and seventy-five pounds" be substituted therefor.

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

THE FINANCE BILL, 1983.

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, following consultation with the Finance Group I propose that Clause 4 be amended. Perhaps if I were to read it out, Mr Chairman, and then you might like a photocopy of this. The amendment is, Sir, to omit all the words after the expression '7(1)' and to substitute the following words: 'of the Income Tax Ordinance is amended by repealing paragraph (ua), and substituting the following paragraph: "(ua) the income of any trust or of any beneficiary under the trust, where - (i) the terms of the trust expressly exclude persons residents of Gibraltar (as defined in section 2(1) of the Companies (Taxation and Concessions) Ordinance, 1983) as persons who either are, or may under any discretionary powers of the trustees under the terms of the trust, beneficiaries or any class or classes of beneficiary; and (ii) the Commissioner is satisfied, in every case where a beneficiary under the trust is identifiable by name, that in each year of assessment to which the exemption relates, that that beneficiary is not a resident of

Gibraltar (as so defined)". Perhaps the Learned Attorney-General may speak to it, Sir.

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

HON ATTORNEY-GENERAL:

Mr Chairman, Hon Members will recall that I think it was last year or the year before, an amendment was moved in part to Section 7 of the Income Tax Ordinance. Section 7, the section in the Ordinance which says which income is exempt from taxation and as put to the House and as passed the effect of that was that if a person was a beneficiary under a trust and he was non-resident and he was named in the trust instrument and the point of naming him was so that it could be established by way of proof, as it were, that he was non-resident, then the income he received from the trust would be one of the kinds of income which was exempt under section 7. The Finance Centre Group subsequently made the point that they would not wish merely to exclude income in the hands of the beneficiary but the income of the trust itself and so the effect of this amendment is to widen that exemption and to widen it in such a way that any income from a trust will be exempt from income tax as well as the income in the hands of the beneficiary as long as certain conditions are made and the first of those conditions is that the trust document must exclude as possible beneficiaries or possible classes of beneficiary, persons who are resident in Gibraltar and the term resident in Gibraltar in this instance is defined by reference to the Companies (Taxation and Concessions) Ordinance, 1983, because that is slightly wider than the definition ordinarily resident in Gibraltar under the Income Tax Ordinance although it includes such people. So as long as the trust documents on the face of it excludes the possibility of a distribution to beneficiaries of that class who will qualify, that in addition, again for the purposes of facilitating proof that the trust is eligible for exemption, sub-paragraph (2) says; "The Commissioner of Income Tax must also be satisfied in any case where it is possible to identify who a beneficiary is by name, that that beneficiary is not a resident of Gibraltar". Of course, I think, certainly as the Hon Legal Members of the opposite side will understand, not all trusts on the face of it will disclose at once by name who are the beneficiaries, they may be discretionary trusts and they may refer to a possible future class but that is the general thrust of the second paragraph of the amendment, Mr Chairman, and I think that that is the point of clarification I would like to make, thank you.

HON P J ISOLA:

Mr Chairman, if I understand this correctly, the present tax position in Gibraltar is that a non-resident can have an account in a bank in Gibraltar, have money deposited in that bank and his income is free of tax if he is regarded a non-resident (a), that is now in the statute. (b) You have got your exempt company which pays a tax to the Gibraltar Government of £200 or whatever a year and their income is exempt from tax as long as it hasn't got any investments within Gibraltar. I don't object to the terms, I think I have got the picture on this, the only thing wrong with this particular situation is that the trust that is set up if one extends it to a discretionary trust there will be no inducement to have that trust within a company and there could be a loss of £225 a year to revenue because people might just have trusts and no exempt company, that is problem number one. But problem number two, this is the one that bothers me much more than any other is, that if I set up a discretionary trust for non-resident beneficiaries, there is nothing to stop me, is there, from investing that money in a mortgage in Gibraltar or buying property in Gibraltar and the income of that trust will be free of tax. Am I right, because I am sure that is not the intention. It says here* "The income of any trustee or trustees from any trust". If the trustees own or invests within Gibraltar will the income of that trust be exempt under this clause? This is the big query.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The point that I think that the Finance Centre was getting at here was that in a discretionary trust you may have funds remitted to Gibraltar which if they go into the hands of, say, a lawyer and he is the trustee, would immediately become taxable so the object is to avoid them being taxed whilst at the same time making sure that his fees continue to be taxed, as it were, and that is the main object and thrust of this change.

HON P J ISOLA:

I know that is the object but does this not mean in effect that a trust can be set up in Gibraltar and that trust can invest money in Gibraltar? I know the object is the income but supposing that trust decides to invest money on mortgage which, for example, a tax exempt company cannot do, is that income going to be exempt from tax?

HON FINANCIAL & DEVELOPMENT SECRETARY:

If it belongs to someone outside it is alright, yes.

HON P J ISOLA:

Well, then why cannot an exempt company invest in a mortgage and they are at least paying the Government £225 a year? Surely there must be something wrong here, Mr Chairman. This would provide an enormous loophole in your tax law as a means of non-residents investing in Gibraltar free of tax. I had a case that immediately springs to my mind of a person who has a settlement in Gibraltar and has a company with property in Gibraltar which pays tax but all he has to do is pass the company to the trust and pay no tax.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, this is an amendment which has been put forward by the Finance Centre which we were very anxious to get through because of the development of the Gibraltar Finance Centre. I wonder, Sir, if I might ask if we could have a ten minute recess to look at this further.

MR SPEAKER:

The manner in which I see it and I understand it is that the legislation already exists to exempt the payment of tax for certain people but the tax was originally deducted at source and all that is being attempted to do now is that where those circumstances arise the tax will not be deducted at source. Before it was deducted at source and it was rebateable in the hands of the beneficiary, now it will not be deducted at source. That is the way I understand it.

HON A J HAYNES:

As I understand it I thought it was an enabling provision to allow trust income to accumulate in Gibraltar without incurring tax. It would be a simple matter to further amend it to include that accumulating or enabling provision to extend to trust property held in Gibraltar.

HON CHIEF MINISTER:

I think we ought to proceed with the rest of the Bills and leave that until later.

MR SPEAKER:

Let us then postpone the consideration of this amendment and continue with the other clauses in the Bill.

HON ATTORNEY-GENERAL:

With your leave, Mr Chairman, if I can just answer the point made by the Hon and Learned Mr Haynes. I think what he said in the first place was quite correct that as this stands, income of a trust which accumulates in Gibraltar so long as it is for the benefit of outsiders, is exempt from tax. That is the effect of this amendment and I understood him at first to say that he recognised that that was the effect of this amendment but then to go on and say, if I didn't misunderstand him, which are wide enough to cover. I am not sure that is what he meant but the effect of it as it stands is that trust income of non-residents that is allowed to accumulate in Gibraltar will not attract income tax.

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

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

Clause 7 was agreed to and stood part of the Bill.

Clause 8

HON P J ISOLA:

Mr Chairman, as far as clause 8 is concerned we have asked Government to reconsider the rates for hotels. Is Government prepared to consider that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, the effect of the Government subsidy is that the hotels will pay 40p which is I think the price that the Hon and Learned Leader of the Opposition proposed, but I am afraid it is my experience during the past three years that unless there is a carrot we are not going to get the money paid in and the carrot that we are offering is that we say the amount is 55p, pay that and you get the 15p back provided the bill is paid within thirty days. If we bring it down to 40p we are not going to get the money in. I am sorry but that is the case.

HON P J ISOLA;

Mr Chairman, we have already spoken about the water and our opposition to the increase and on this particular clause we are voting against.

On a vote being taken on Clause 8 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon Major F J Dellipiani
The Hon Major R J Peliza

Clause 8 stood part of the Bill.

Clause 9 was agreed to and stood part of the Bill.

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

MR SPEAKER:

Then perhaps we will take an earlier recess otherwise we are going to have to report out of Committee and back again. When we come back we will then consider Clause 4 of this Bill and see what happens.

The House recessed at 4.55 p.m.

The House resumed at 5.30 p.m.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I am indebted to the Hon and Learned Leader of the Opposition for the point that he made on Clause 4. He has pointed to a lacuna which I think that the Government needs much more time to look at and so with the permission of the House, Sir, I would like to withdraw this clause of the Bill and to re-

introduce it and re-draft it with the qualifying companies amendments which we will be bringing in as an amendment to the Income Tax Bill at the meeting of the House later in May. With your permission and the permission of the House, Sir, I would like to withdraw it.

MR SPEAKER:

Let us take it by stages. Does the Hon the Financial and Development Secretary have the leave of the House to withdraw Clause 4 of the Bill? This was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I move that Clauses 5, 6, 7, 8 and 9 of the Bill be amended to read 4, 5, 6, 7 and 8 respectively.

Mr Speaker put the question in the terms of the Hon the Financial and Development Secretary's amendment and Clause 4 was deleted and the remaining clauses renumbered accordingly.

THIRD READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to report that the Finance Bill, 1983 and the Appropriation Bill, 1983, have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

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

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A J Haynes

The Bills were read a third time and passed.

REPORTS OF COMMITTEE

SUSPENSION OF STANDING ORDERS

HON M K FEATHERSTONE:

Sir, I beg to move the suspension of Standing Order 7(3) to allow me to lay on the table the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance.

This was agreed to.

HON M K FEATHERSTONE:

Sir, I have the honour to lay on the table, Sir, the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance. Sir, while laying this on the table I would like to explain that it had been the original intention of the Committee that a draft Bill should be attached to the Report. The draft Bill is not quite ready but it will be ready within a very short time and it is proposed therefore to lay the Bill itself on its own at the moment but Hon Members will be circulated with a copy of the draft Bill within a very short period.

Ordered to lie.

SUSPENSION OF STANDING ORDERS

HON M K FEATHERSTONE:

Sir, I beg to move that Standing Order 19 be suspended in order that I may move a motion which I actually gave notice of on the 18th April thinking that the House was going to last five days. The motion would read, Sir: "This House resolves that the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance be now made public prior to its consideration by the House".

Mr Speaker put the question which was resolved in the affirmative and Standing Order 19 was accordingly suspended.

MOTIONS

HON M K FEATHERSTONE:

Sir, the intention of this motion is that the Report should be the subject of another motion on the continuing session of this House which I believe is some time in May when it will be debated but in the meantime it is felt that it may be beneficial to Members if the Report be made public so that feedback can be obtained by Members and enable them to be better prepared when they speak to the acceptance of the Report or otherwise. I commend the motion, Sir.

Mr Speaker proposed the question in the terms of the Hon M K Featherstone's motion.

HON P J ISOLA:

Mr Speaker, we agree to the motion and we agree to the Report being made public. It is a pity, of course, that as far as other Members of the House other than the Select Committee are concerned, it is unfortunate that we haven't really had an opportunity to read it before agreeing that it should be made public but in the very special circumstances of this Committee we would agree. I notice that no Bill is attached and I have noticed also that this will be done shortly. As far as I am concerned, Mr Speaker, I prefer that no Bill should be attached to a Report, but that we should get the Report and that the Bill should be drafted against the background of what Hon Members say and against the background of a Government decision seeking to implement the Report.

HON CHIEF MINISTER:

What we want to do with this is for people to have time to look at it.

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

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I move the suspension of Standing Order 19 in order to be able to propose the motion of which I gave notice on the 18th April of this year which stands in my name.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 19 was accordingly suspended.

MOTIONS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the following motion in my name: "This House resolves that the Report of the Select Committee on the Matrimonial Causes Ordinance be now made public prior to its consideration by the House". Mr Speaker, in so moving I would like to say that my reasons for moving are the same as those of my Hon Colleague, namely, that there should be time for the matter to be considered and views obtained before a motion is put to the next meeting of the House of Assembly being a motion recommending the adoption of the Report. I move accordingly.

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

HON P J ISOLA:

Mr Speaker, we agree entirely that the Report of the Select Committee should be made public. I presume copies will be made available to anybody who wishes a copy because I think a lot of people will want copies of this Report. May I say, Mr Speaker, that I have read this Report and I would congratulate the Committee on how well the Report has been written although not necessarily agreeing with its recommendations but I think it is a very lucid Report and the case is put forward extremely well.

MR SPEAKER:

Copies, I understand, will be made available at the Secretariat.

HON ATTORNEY-GENERAL:

Mr Speaker, I am obliged to the House for their remarks and, indeed, as the Hon and Learned Chief Minister has said, copies are already available. I would commend the motion.

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

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move: "This House is concerned at the decision of the Government to appoint an additional Trade Licensing Authority to hear one specific set of applications for a particular trading licence and considers that the matter should not be proceeded with in this manner". Mr Speaker, the purpose of the motion is not in fact to ask the House in any way to pass judgement on the merits of the applications themselves which is purely a matter for the Trade Licensing Authority. There are, as I see it, two implications in the way in which this particular set of licence applications have been handled which give cause for concern and which I think requires that the matter be debated in the House of Assembly. As I understand it, the decision to appoint a second Trade Licensing Authority arises out of the fact that objectors to the granting of the licence made representations to some members of the Committee. Whether this should happen or should not happen, I am not aware that the law prohibits it happening and I am aware that it happens constantly with every single application that comes up before the Committee, in fact, it is standard practice, for example, particularly say in the area of applications for building firms, that the Master Builders Association and individual firms make not only representations officially to the Committee but representations to particularly, I think, the people who are appointed to that Committee as a result of consultation with the Chamber of Commerce and with the Gibraltar Trades Council and the people who are nominated to the Trade Licensing Committee by the Gibraltar Trades Council see their function in that Committee, the Trades Council sees that as being directly linked to the clause in the Trade Licensing Ordinance that talks about the needs of the community being adequately met and interprets that in the context of the constitutional responsibility of the Trades Council to protect people at present in employment and in that context, in looking at firms that want to enter into employment, the Trades Council requires its representative on the Authority to consider whether the granting of the licence would effectively be not to meet an unsatisfied demand in the market but at the expense of established employers in Gibraltar and whether that would lead to a consequential reduction of employment in that same field of business or industry. As I say, if the fact that somebody is applying for a licence, if that is allowed to be used as an argument for changing the Trade Licensing Authority, then it means that

virtually everybody that goes for a licence will be able to demonstrate fairly easily that the people who are already established in that particular line of business object to his being granted a licence and that therefore because they have lobbied members of the Committee then the Committee should be changed and that appears to be the argument that has been accepted in this particular case. Secondly, I would like, in fact, to have explained to me how it is that Section 24 of the Trade Licensing Ordinance says: "There is a Trade Licensing Authority" and at the moment there are two Trade Licensing Authorities. There are two Trade Licensing Authorities in existence at the moment, the one that was there previously and the one that has been nominated because to my knowledge the one that was there have not had their appointment terminated by the Government. Given that, it seems to me that the Ordinance does not provide for two Authorities to exist concurrently and therefore one of them must be outside the provisions of the Ordinance, as I understand it. I am not, of course, a lawyer and I am just reading the law as a layman but to me the law seems to be perfectly clear. The situation I think has been created which to my mind is unnecessary. I think that there is scope within the composition of the Trade Licensing Authority, given that there are substitutes for both the people nominated by the Trades Council and the people nominated by the Chamber to allow the individuals if they feel that they are incapable because of any personal commitment to look at a case on its merits, there is in fact the possibility of ensuring that for a particular hearing the substitute of one or the other representatives should hear the case. The area where this cannot happen is in fact in the case of the independent members because the two independent members do not have substitutes but if there is an omission in the law it seems to me that possibly the omission might lie in that particular area in that it might be desirable to have substitutes for the two independent members as well. The other thing of course, Mr Speaker, is that the law already provides for the right of appeal and I would have thought if the person applying for the licence felt that the hearing was not a fair one and that his case had not been heard on its merits, then that could be used as an argument to appeal against the decision of the authority and I cannot see why there was a need to change the authority in this particular case. To my knowledge, since we introduced a Trade Licensing Ordinance in the House in order to comply with the requirements of the Treaty of Rome, there has not been a single previous case of this nature. This sets a precedent and I think precisely because it sets a precedent it needs to be looked at again and the purpose of my motion is precisely to do that so that the matter will not be

proceeded with as it was intended and that the Government should reconsider it and I put it to the Government and to the House that in fact the existing composition of the Committee allows the flexibility of replacing some of the individuals by others for any specific case and, secondly, the safeguard in the law of the right of appeal allows for the argument to be put against a rejection of the application on the basis that the application has not been fairly judged.

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

HON CHIEF MINISTER:

Mr Speaker, as far as the Government is concerned certainly the Government has acted on legal advice throughout and we are not concerned really what happens in the Trade Licensing Ordinance other than it should be regular and so on but if I understand the position correctly the whole trouble started because at the outset of the case one of the members of the committee who I think happens to be a member of the Trades Council himself said that if he wasn't going to sit at the hearing because he had been approached by one of the sides and with respect I think that is what has put the cat among the pigeons and then others said that they had been approached and some said they had not been approached and that is why the matter stood like that. I think the Hon Member has a point, I think we ought to, subject to anything the Attorney-General has to say, not only must justice be done but it must appear to be done and it looks as if though the Honourable Mover is speaking generally, I think he is particularly knowledgeable or concerned because as a member of the Trades Council the Trades Council provides members to the committee and I understand it to be his view, particularly so far as those members are concerned, that if the members of the Trades Council at that meeting or one of them had been approached and was not fit to sit that his substitute should have taken the place and not have the whole thing start de novo. As I say, even after listening to the legal advice perhaps what has been done is correct, I think the matter that the Honourable Member has disclosed has revealed a state of affairs which we ought to look into and I may ask for leave from the Hon Member before he replies to say something after the Attorney-General has spoken.

HON P J ISOLA:

I am not sure whether I understood the mover of the

motion correctly. As I understand the position there is a Trade Licensing Authority that sits in what I would call a quasi judicial authority and it is composed of representatives of trade and the Unions and two independents and they are set up to consider applications on their merits. One does know that the Chamber of Commerce appointees as indeed the Trade Council appointees are there to represent the interests of trade in the case of one and in the interests of workers or employees in this particular case, in the case of the other, but I don't think, although it possibly happens, I think lobbying in a way is inevitable but I don't think we can condone it in this House and I don't think I could agree that it was in order for somebody who was objecting, as indeed for somebody who was applying for a licence, to go to a member of the committee be it a union man or be it a trader, pursuing his case because if he wants to pursue his case that is what the Trade Licensing Committee is there for to adjudicate on it and if he objects to a licence he should go to the Trade Licensing Authority and object there.

From what I understand, one of the members of the Trades Council had been approached and lobbied and having been approached and lobbied he decided he should not sit.

HON J BOSSANO:

If the Hon Member will give way. What I understand in fact happened, Mr Speaker, is that the lawyer for one of the firms applying which is a firm with ownership from outside Gibraltar, made the allegation in the committee to the Trade Licensing Authority that in fact one of the members or more than one member had in fact been lobbied by the firms that were already established in Gibraltar and that consequently having been lobbied had already had his mind influenced to the degree that he was incapable of making a decision on the merits of the case before him and in fact this was corroborated by one of the Trades Council representatives that was present at that meeting and as a result of that a new Trade Licensing Authority has been appointed. I don't think that the fact that this accusation was made by the lawyer of the applicant and that one of the members of the committee who happens to be nominated by the Trades Council but for whom there is a substitute also nominated by the Trades Council, admitted that this was the case and said that his mind was already made up and that he was going to vote against the application irrespective of the evidence, I don't think that justifies the second step which has taken

place which is a second Trade Licensing Authority has been appointed and the first one continues in existence. If in fact they had scrapped the Authority altogether and nominated a new one to hear every application from now on, I would not be bringing the motion to the House but a new one has been created additional to the existing one exclusively for this case.

HON CHIEF MINISTER:

I think, first of all, it is bad to have special tribunals for special cases. That, constitutionally is improper and undesirable and the other thing which is also important is that if people lobby by simply passing on circulars or passing letters of objection sent to the Chief Minister or to the Government for a change of policy and so on and that is going to disqualify them, then we will never have any committee to live for long. People who are appointed to committees are presumed, unless they have various great objections themselves in which case of course that must be respected, are presumed to be able to resist the natural lobbying that is carried on in the sense that they want to promote a particular idea; so long as the lobbying is proper and uncorrupt as there is no suggestion that it was in any other way here but certainly by the number of letters that I have received in respect of one and to the other of these people as Government asking us to make facilities for one or to deprive facilities of the other, it could be said that the Government is also being lobbied which is perhaps right but the fact that copies of this document or that in any other way members are told should not unless the members themselves wish to be disqualified, disqualify the committee. Very rarely does a committee of this nature sit that the matters before it have not been brought to their notice in a perfectly correct way, whether correctly or not is another matter and therefore we would be having different committees all the time. The point made by the Honourable Mover about the substitute members presumably was done precisely to cover a situation such as this and I do know that in respect of representatives of the Chamber of Commerce when some of the people directly connected with them are concerned they leave the committee and their substitute takes over.

HON P J ISOLA:

Mr Speaker, I don't suppose you can stop people approaching you and saying things but I think that if I was a member of the Licensing Authority or I think if any member of that Licensing Authority who had an application before him and who was approached on the matter really should refuse to listen to the case.

HON CHIEF MINISTER:

If the Hon Member will give way. If you receive material which is being circulated about, being protected and so on, that is a sort of method of approach too.

HON P J ISOLA:

There is nothing wrong, I suppose, in getting material as long as all the committee gets it. I can't frankly, Mr Speaker, agree that if a member is sitting in that Licensing Authority and says: "Yes, I have been approached and my mind is made up, I am against this application," I don't see how he can continue sitting in that hearing. I think the proper thing is to withdraw.

HON CHIEF MINISTER:

Yes, quite.

HON P J ISOLA:

And if he does not then I am sure that the Appeal Court would immediately squash the decision of the Authority, I have no doubt about that at all and I certainly don't think that we should do anything in this House that gives encouragement to the idea or gives legality to the idea that lobbying of members in a Trade Licensing application, individually, is anything but corrupt. There is no question about it, they are there to do a job. We all know that there are interests and sometimes you go to the Trade Licensing Authority and you know their minds are made up, this is inevitable in a small place but I don't think we can accept that that should be the situation. That is the first part and I think that as a House of Assembly we would expect a tribunal, call it what you want, that has been set up by this House to consider applications, we would expect them to consider them free from all influence, as unbiased as possible and on the merits of the application, that is what we would expect, but we know that there are problems. I have always had my doubts actually about the composition of the Trade Licensing Committee but that is another story. The other point made by the Honourable Member I feel bound to say does seem to me to have some weight and that is that if one member of the authority has been approached and to that extent has made up his mind because he has been approached, then I can't understand why his substitute should not have been appointed and although it is for this House to take the opinion of the Honourable and Learned

Attorney-General in all these matters, it does seem to me, frankly, on reading that particular section of the Trade Licensing Ordinance, that there is power to appoint one authority. I defer to the opinion of the Hon and Learned Attorney General but it seems to me that the Ordinance does say one authority and I don't think the Governor can having created one authority create another for a particular application and I think the system of alternatives than substitutes in the circumstances would be the best. I have had letters, we have had copies as we walked into the House and it seems to be an application of great public importance and likely to affect the future of Gibraltar because all members of this side of the House were all handed letters today, copies of letters, when we came in to the House I am not sure whether it was on behalf of the people supporting the application or people objecting to the application and we have seen it and all I can say is, well, what do we want a Trade Licensing Committee for, we are not going to start adjudicating on these matters. Our views on gaming machines are well known and we actually oppose them, proliferation we oppose completely on this side of the House but it is not for us to decide that. To sum up, Mr Speaker, there can be no doubt about it, as far as we are concerned we think that in principle, even though in practice it may be a different story, any member of the Licensing Committee who lobbies and allows himself to be influenced to such an extent that without hearing the application says he is against it or he is for it, should not be sitting, his substitute should sit. Having said that, knowing how everything goes, I think one should be very careful to try and appoint an entirely new panel because somebody objects or some lawyer takes a point, I agree, even though it is a brother of mine, I must stand up to them wherever I can, but that doesn't derogate from the principle that the Trade Licensing Authority has a job to do under the Ordinance and no individual member should allow himself to be influenced or lobbied. I think that principle we must be very firm on.

HON ATTORNEY-GENERAL:

Mr Speaker, I am just recovering my notes which I seem to have misplaced. Mr Speaker, the first point I would make in speaking to this motion is that I think we are talking about a particular incident and I would hope to be able to persuade the Hon Member or to have the Honourable Member agree that it doesn't necessarily flow from this one incident, that there was a chronic continuing situation or do we need necessarily to know what has happened in this occasion. Having said that, there is in fact only one Trade Licensing Authority and it is my

opinion that we have not reached the stage in the course of this incident where there have been two Trade Licensing Authorities, certainly as a matter of law, and what the Ordinance contemplates is a single Trade Licensing Authority. It says so as is pointed out in Section 26 and the functions of that Trade Licensing Authority are what are commonly described as quasi-judicial and I think simply put that means that the Authority is expected to act in a way not exactly similar but broadly similar to the way a court would act, in other words, it has got to observe certain standards of detachment, objectivity and to avoid prejudgement on issues. But if I can speak briefly to the composition of the authority, it is the case as has also been pointed out and this is not uncommon for a statutory tribunal that the membership comprises people who represent different interests and there is nothing wrong with that whatsoever, it is a common thing that happens, especially, as I say, in a statutory tribunal and in this case I think it can be said in general terms there are business interests represented and there are employee interests represented and there are other what for want of a better word can be described as independent interests i.e. in a very neutral sense. I myself think there is nothing wrong, nothing improper, in fact I think it is the very good purpose of having an authority structured in this way that those members who are appointed on the nomination of particular groups are there to inject into the proceedings the philosophy, if you like, or the thinking or the interest of those groups but that is not the same thing at all as saying that in relation to a particular case they should listen to lobbying beforehand and make up their minds beforehand. I think that their import of representatives of a group is reflected in their overall thinking having first through the arguments put forward for each side. What I am saying is that I agree, with respect to both the Hon Chief Minister and with the Hon Leader of the Opposition, that it is wrong to receive representations outside this specifically because the Authority has a statutory procedure to follow which is laid down which provides for a case to be made out provides for objections to be made to it and a decision to be reached. I would agree with the Honourable the Chief Minister, I don't know whether the Hon Leader of the Opposition quite meant this but I don't think it necessarily follows that because somebody has approached a member of the tribunal that that is corrupt. I think possibly people don't appreciate clearly in their minds the difference between on the one hand a tribunal's membership representing certain interests and on the other hand the fact that it might still sit in a quasi-judicial manner.

So far as this particular case was concerned as I

understand it what happened was this that there were approaches made to at least one member beforehand and that when the matter came on at the hearing I think the point was taken by somebody that in any event that member, and I think at least two other members, disclosed that they had got views and that in at least one case they had been approached about the matter and there were already thereby saying in effect that they can come to a pre-determined view or if it is putting it too strongly to say that, they were putting themselves in a situation where an objector or a party who wished to take the issue had good reason to say it is not apparent that they are acting otherwise than with preconceived ideas. It is true that one remedy for that would be to appeal but really the law does have an element of practicality about it and if it is known at that stage that there is an apparent want of detachment then obviously one way of resolving it is for that particular body as so constituted not to proceed to hear the matter but to disqualify itself in effect and for somebody else to be appointed to hear that particular case. The fact that that process happened does not in my view mean that two tribunals exist.

HON J BOSSANO:

Mr Speaker if the Hon Member will give way. First of all, I assume that he is not suggesting that the organisation nominating the people was in fact lobbied or biased because if that was the case then by definition whoever is appointed by nomination is equally biased as his predecessor. So if we are talking about one individual, out of four nominations, admitting openly that he has been approached and that consequently his mind is made up and there is another representative of the Trades Council who in that meeting says that he hasn't been approached and there is a substitute for the person that says that he has been approached and admits it, then I cannot see why there is a need to nominate a completely new Trade Licensing Authority when one of the two people there said he had not been approached and the one that said that he had been approached had a substitute which was already in existence and which could have been substituted for the one that was admitting that he was biased. I cannot understand where the need arose. And the second point is that if the Hon Member says that there is only one Trade Licensing Authority I would like to know at this moment in time what is a Trade Licensing Authority because in fact the second Trade Licensing Authority, for example, met and was unable to consider the application because by some oversight it had been incorrectly constituted since only a Chairman and five members had been appointed

and it should have been a Chairman and six members. So if that authority, the second one, is improperly constituted is there none at all or is the first one still there or are we talking about a third one and then we are going to have three? Which is the exact position at the moment?

HON ATTORNEY-GENERAL:

If I can deal with the first point. I feel I haven't clearly got across what I was trying to convey to the Honourable Member that there is a distinction, I think, between the people or the bodies who nominate members to the authority and of course they have views and that is part of the reason why they are the people who nominate. There is a distinction to my mind between that and the persons so nominated still - observing the requirements of quasi judicial functions even though having observed those requirements when it comes to apply his thinking to the decision he draws on the philosophy or the views of the body he represents. I don't think I disagree at all with that but in this case - I would like to leave the question of how many authorities there are just for the moment - in this case I think it reached the point where it came out that a number of members had been approached in the matter and I think the thrust of the advice that was given was that the safest thing to do in that particular instance was to appoint new members and a group of new members was accordingly appointed, at least that is my understanding as the reasoning behind it. The Honourable member mentioned the question of substitutes. As I read the statute I do not really think that substitutes in the strict legal sense of the word are provided for, I think what it says is that there is an authority which shall consist of the Chairman and six other members of whom four may constitute a quorum. That formula, an authority of seven people of whom four are a quorum, is not the same thing as a statutory tribunal which has members plus substitutes. I don't really think the question of substitutes arose here.

HON J BOSSANO:

I am sorry to interrupt you. I accept that under Section 26 it doesn't mention substitutes but what I am saying is because I happen to know the people there, that there were at that meeting two persons nominated by the Gibraltar Trades Council one of whom said that he had been approached. On being challenged by the lawyer representing the applicant he said: "Yes, I have been approached. My mind has been made up before I came here and I am going to vote against the application without hearing the case or irrespective of what I hear." The other one of the two said:

"I haven't been approached." There are two people already nominated as alternate members or substitute members who have been gazetted. When the authority was constituted, in the gazette there were so and so and so and so nominated after consultation with the Trades Council and so and so and so substitute for the first two. In fact if one of the first two is ill, for example, one of the substitutes replaces him. Now if one of the first two was not ill but said that he was biased surely one of the substitutes could have replaced him, that is what I am saying.

HON CHIEF MINISTER:

The information I have just had is that the member who said that he had been approached said that the other two substitutes had also been approached.

HON J BOSSANO:

He might have said it, Mr Speaker, but suppose that member comes along and says that the two who have now been appointed have been approached what do we do next?

MR SPEAKER:

With respect to all the speakers up to now, we are missing the object of the motion. The object of the motion is "This House is concerned at the decision of the Government to appoint an additional Trade Licensing Authority to hear one specific set of applications for a particular trading licence and considers that the matter should not be proceeded with in this manner." What we have to debate is should a second authority have been appointed and should this be condoned, and not whether people should be biased or if they have been approached they should consider their entitlement to sit.

HON ATTORNEY GENERAL:

Mr Speaker, the object of what I am saying is to come to a point where I will be maintaining that there is not more than one Trade Licensing Authority, there is one Trade Licensing Authority and not more, and to explain why that is so and to explain that what has happened is not that a second authority has been created but that in the circumstances which arose in a particular case, there were reasons why it was desirable for that case at least to replace the members to hear the particular matter and in that sense, Mr Speaker, if I may, I would suggest that I am speaking to the point of the motion, unless you disagree with me. I do have to make a point that from a legal point of view I can see on a reading of the

Ordinance no authority for substitutes. But be that as it may the fact that one person out of two people who represent a group may have indicated that he had an interest and the fact that other members of the tribunal may have indicated that they had an interest and indeed the point made by the Chief Minister that the member who was speaking for that group, I think the Trades Council, may have said something about his colleague means that one gets to a point and a point of feeling if you like, that really the safest thing to do is to say in this case because all this has come up and to avoid any unnecessary contention by the party who has taken issue over a situation like this, we should reconstitute the authority for this case and I think that that was the thrust of the decision taken in this particular instance. I do not think this is a case where two Trade Licensing Authorities exist. The Trade Licensing Authority is a statutory body which consists of various members from time to time who can be replaced.

HON J BOSSANO:

But, Mr Speaker, they have not been replaced. The original appointments are still there and new appointments have been made. If the law says the quorum is four and suppose four of the people who are still appointed decide to meet are they properly constituted as a Trade Licensing Authority or not? If the letter of appointment had gone out to the existing members and said: "Your appointment is hereby terminated" and then a new authority had been appointed and heard the application and then after the application had been heard a letter had been sent to the new members and it said: "Your appointment is terminated", and then a letter of appointment had been sent to the old members, I would accept that all the time there had been one authority in existence but this has not happened. Letters of appointment have been sent to new people, the new people have met, the thing has been gazetted and the old ones still hold their appointment and in fact, as I said, in the old one whether Section 26 mentions it or not, there are four Trades Council nominees with letters of appointment and as a result of the new one there are about six Trades Council nominees with letters of appointment. That is why I want to know just how many authorities there are around the place.

HON ATTORNEY GENERAL:

Let me say, Mr Speaker, that if there is to be a change then of course for the time being at least the persons who have stood down should stand down from the authority while the persons who have been appointed in their place sit on a

particular case. If that hasn't happened, if that has not been carried into full effect then that I think that is a procedural point that has been overlooked. I don't think it has been anybody's intention to create a situation where there are two Trade Licensing Authorities side by side. There was one other matter I was going to refer to, Mr Speaker. I am afraid it has escaped me, Mr Speaker, but I hope I have been clear in saying that there is one Trade Licensing Authority. I don't believe that it has been the real intention to appoint a Trade Licensing Authority that exists side by side with it and I think that the real situation that arose here was that there was a need for the purposes of a particular case.

HON J BOSSANO:

Is the Honourable member aware that subsequent to the appointment of the second Trade Licensing Authority the first Trade Licensing Authority met to hear other applications? Is he aware of that? The second had been appointed and the first one was still meeting to hear other applications. It might have been an oversight so I am bringing the oversight to the notice of the House and I am saying this should be stopped and the whole matter should be looked at again from scratch because I really think that the law doesn't allow for this sort of thing. Are the applications heard by the second one who should have been disappointed or unappointed or whatever it is called, are they valid decisions or not?

HON ATTORNEY GENERAL:

I will look into that, Mr Speaker, that, procedurally should not have happened and I don't think that was the overall intention of what was to be achieved. If I could give an example. To me it is really like a case where a judge is sitting in a case, and I know that in the case of judges it is slightly different because once you are appointed they are always judges but leaving aside that aspect of it it is very similar to me to a situation where a judge is appointed in a case, either he says, "I happen to know a party" or somebody objects in some way for bias or whatever reason and so the judge will stand down and another judge will take his place. I think that is all that has been intended to happen in this case. If I can answer the point which I had temporarily forgotten and which the Honourable member reminded me of when he was speaking. The fact that only five instead of six members are appointed in my opinion is a matter of law not a reason why a body cannot sit. The law

does contemplate that six should sit plus the Chairman but it also says that a quorum of four is sufficient though I think that the authority could sit even though a total of six rather than seven persons were appointed.

HON J BOSSANO:

Is he aware, Mr Speaker, that in fact when the new authority, shall we say, met to consider this application, the lawyer for the objectors objected about the constitutionality of the authority precisely because one less person had been appointed than should have been and that point was accepted and the authority was told that it couldn't go ahead with listening to the application.

HON ATTORNEY GENERAL:

With great respect to my own profession the fact that lawyers before a tribunal make submissions is not necessarily conclusive.

MR SPEAKER:

The fact that it was accepted.

HON ATTORNEY GENERAL:

Yes, I am coming to that, Mr Speaker. My chambers so far as we can and in the last week I am afraid we have had other commitments, have been trying to provide counsel to assist the Authority and in effect, by and large, that is the normal arrangement and I think certainly had that argument been put forward counsel assisting the Authority would or should have taken issue with the point. I don't know whether in this particular case Crown Counsel was present but I have a feeling that at that time they were tied up in another case.

HON CHIEF MINISTER:

Mr Speaker, I hope that the matter has been aired enough and I don't want to be concerned with the Authority at all but as a Government I want to be concerned that the matter is thoroughly investigated and see what comes out of the wash because it seems to me that it is somewhat confusing and I would ask the Honourable Member to withdraw the motion, having called the attention of the House, on the understanding that the matter will be thoroughly investigated and considered in the light of all the points that have been made on both sides of the House.

HON J BOSSANO:

Mr Speaker, I have got no objection to withdrawing the motion, in fact my concern was that something should not be done which it seemed to me, quite frankly, to be a rather hamfisted attempt to get round the problem that had arisen by the fact that one member of the committee had admitted openly in the committee that his mind was made up before hearing the case. I think the way it has been done with the best intentions in the world, creates a series of precedent which I consider to be certainly a departure from the strict letter of the law as I read it and which would open a door for all sorts of further developments if other people use this particular incident when they have something they feel aggrieved about. What I want to ensure is that we go back to the beginning, really, and try to get the thing on a proper footing so that the application can be heard normally and then it is up to those there to decide on the merits of the case. I am not seeking either to express a judgement or influence in any way the decision of the authority, all I am concerned is that the decisions of the authority should take place within the framework of the law we passed in this House as I understand that law. If we want to do something different well then let us change the law.

HON CHIEF MINISTER:

I think this draws the attention generally of the point that the Government might look into it in consultation with the legal department in circularising members of committees as to the extent to which they can entertain or listen to, I mean it is impossible not to read a letter if it is sent but there should be some code of procedure for these people otherwise anyone who wants to delay a decision of any committee can get it by approaching the members and putting them in an embarrassing situation.

MR SPEAKER:

Am I to understand that the mover is asking for the leave of the House to withdraw his motion?

HON J BOSSANO:

Yes, Mr Speaker.

MR SPEAKER:

Does the Honourable Mr Bossano have the leave of the House to withdraw his motion?

This was agreed to.

HON CHIEF MINISTER:

I think that completes the business of this part of the meeting, I hope that the part of the meeting that was left unfinished at the beginning and that is the question of the two Select Committee Reports which are now before the House should be dealt with on the 24th May. That will not in any way interfere with the normal business of the House in having another meeting at the end of June or the beginning of July as would have been the case anyhow.

MR SPEAKER:

I will then propose the question which is that this House do now adjourn until Tuesday 24th May.

HON P J ISOLA:

Do I understand the position that we are adjourning to the 24th May just to discuss the two motions?

HON CHIEF MINISTER:

And the pending legislation on Companies Taxation which we announced at the time of the Budget was not ready.

MR SPEAKER:

Let there be no misunderstanding. Since it is an adjourned meeting that any Private Members' Motions can be given notice.

HON P J ISOLA:

Mr Speaker, the thing is that the last meeting of the House that we had in which questions could be asked was in March and we would certainly like on this side of the House to have an opportunity to ask questions at the next meeting in May otherwise you are getting a situation where for three months no questions can be asked and the House is sitting.

HON CHIEF MINISTER:

I am trying to cope with people's convenience as well. Apart from the fact that there is a C.P.A. Regional Conference which Members of both sides of the House are attending in June and the fact that some time after that the Hon Leader of the Opposition has indicated he would be unavailable, I tentatively fixed the next meeting

of the House for the 28th June.

HON P J ISOLA:

The Hon and Learned Leader of the Opposition will be at the Regional Conference and instead of coming back on the Sunday will come back on the Tuesday, I think that alters matters. Mr Speaker, as far as the procedure of the House is concerned we have question time, then we have public business, then we have private motions. We have been suspending Orders and not suspending Orders to allow changes to be made and even in May I presume suspension of Orders will be required to consider anything else because we have finished with the official business of the House. It seems to me that we are able to suspend Orders to discuss Government motions and to discuss Government Bills but the Opposition won't have an opportunity, we are talking of a month hence, to ask questions that are of public interest and that require to be answered. I don't see why we could not just adjourn sine die and then a proper notice given to us of all the Bills and all the motions that require to be put down in the normal way.

HON CHIEF MINISTER:

Proper notice will be given and the Bills to be decided on the Companies Ordinance will be circulated well in time for the meeting of the 24th. I consider this as a continuation of the meeting that we started.

MR SPEAKER:

It occurs to me that we would certainly have had to meet whatever else whether it is from an adjourned meeting or a new meeting, before the 30th June for the purposes of the Landlord and Tenant (Miscellaneous Provisions) Ordinance, as the moratorium expires.

HON CHIEF MINISTER:

But I think it would be much more convenient to have an earlier meeting and discuss the matter and then decide what the prospects are of the legislation coming into being and what, if any, further requirements for the moratorium. I don't mind if I now adjourn to the 24th May and questions are allowed, I don't mind.

MR SPEAKER:

That is completely and utterly in order.

HON CHIEF MINISTER:

I am not saying that no questions could be asked, all I am saying is that I want to adjourn this House to the 24th May.

MR SPEAKER:

There is one of two things that one can do. You can either adjourn this particular meeting to the 24th May or you can adjourn the House to the 24th May when a new meeting will be held.

HON CHIEF MINISTER:

I want to adjourn the meeting but I would not object to questions being asked in the usual way.

HON P J ISOLA:

Well, if there is no objection then there is no problem.

HON CHIEF MINISTER:

It is a continuation of the previous meeting. The business is an on-going one, I am not going to have a new Agenda other than whatever may arise of urgency at this meeting. I consider it as continuing. It does not matter, if you want to ask questions you ask them, but I want to have a continuation, I want to finish the business, that is the whole purpose. I therefore move that the House adjourn to the 24th May.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday the 24th May at 10.30 am.

The adjournment of the House to Tuesday the 24th May was taken at 6.30 pm on Thursday the 21st April, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

23 March 1983

Vol. III

The House resumed at 10.45 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

ANSWERS TO QUESTIONS

MR SPEAKER:

I might perhaps suggest to the Hon and Learned Leader of the Opposition that he should move under Standing Order 7(3) to enable questions to be taken out the normal Order of the Day and to do so in respect of all questions tabled for oral answer.

HON P J ISOLA:

May I so move, Mr Speaker, on behalf of all the Members on this side of the House who have put questions under Standing Order 7(3).

HON CHIEF MINISTER:

Mr Speaker, the purpose of this adjourned meeting was to dispose of unfinished business which, first of all, should have come at the meeting prior to the estimates, that is, the Report of the two Select Committees and, secondly, for measures which were urgent which should have been produced at the time of the estimates in connection with the Companies (Taxation and Exemption) Ordinance. I am not going to oppose this but I would like to give notice that whilst we will have our normal meeting early in July, I will at the end of this meeting adjourn to a date yet to be considered for the purpose only of a motion on the question of the future of the Dockyard to which we are committed, and I would like to give notice that on the occasion since there will be very shortly after a meeting of the House, I would not agree to questions being taken then because there will be within days after that another meeting of the House but on this occasion I really do not mind.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order 7(3) was accordingly suspended.

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

MOTIONS

HON M K FEATHERSTONE:

Sir, with your permission I beg to withdraw the motion in my name and substitute it by the following: "That this House notes the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance and the recommendations contained therein and resolves that the said Report and recommendations be referred back to the House at an early date for detailed consideration and decision".

MR SPEAKER:

Since the motion has not been proposed it is still your prerogative to move the motion in whatever wording you wish. By way of explanation you can say the reasons why you are doing this.

HON M K FEATHERSTONE:

Yes, Sir. The position is that the Government has not had an opportunity, as a Government, to look at the Report itself owing to pressure of other work, mainly the Dockyard situation, and therefore it is felt that it would be rather unfair at least on the Government Members to have to make a recommendation on the Report at this stage and also I think that it would give a little bit of a longer opportunity for those representations which are being made, I think both to the Opposition and the Government, to be taken into consideration as well.

MR SPEAKER:

Do you wish to speak on the motion at all?

HON M K FEATHERSTONE:

I don't think at the moment, Sir, it would be advisable, it might be better to leave it all until we come back again and we have the full Government viewpoint, etc.

MR SPEAKER:

In other words, you don't want to speak any further on the actual motion as moved by you now.

HON M K FEATHERSTONE:

No.

Mr Speaker proposed the question in the terms of the motion moved by the Hon M K Featherstone.

HON P J ISOLA:

Mr Speaker, certainly on our side we have had discussions on the Report on the Landlord and Tenants Ordinance and we have seen the difficulties and the problems that exist in it and of course as far as the Bill is concerned we have not had an opportunity to read it at all and therefore we would support this particular motion which enables everybody to go back and think more about it. The only thing I would like to know is what does the Government envisage as the programme because all the motion will do is to adjourn to a discussion and what does the Minister propose, does he propose to come at a subsequent meeting back with his other motion or a different motion? It is not very clear to me what is the proposal on that? I am talking procedurally, really. I have made a very short contribution on the assumption that the intention behind the motion is that we should shut up and not discuss it except at a later stage but I would like to know how the Minister envisages that we are going to proceed or they think we should proceed.

HON J BOSSANO:

Mr Speaker, I don't see the need for this motion at all, couldn't the original motion have been left for a further meeting? I have got a motion that has been put off two or three times already, I cannot see why we need to pass a motion saying we are going to consider the other motion another day.

MR SPEAKER:

I didn't want to influence the manner in which the Minister did what he felt he should do. I entirely agree with what the Hon Mr Bossano has said. At this stage we have already passed a motion allowing the Report to be made public and there is no reason why there should be an interim motion on the lines of this one. The answer might be perhaps that the Minister would like to ask the leave of the House to withdraw the motion and at a later stage he can move the appropriate motion.

HON CHIEF MINISTER:

Perhaps I may say some of the ideas about timing that I have about this. In the first place the draft Bill accompanying this Report and not a Bill, but the Bill accompanying the Report, has been circulated just recently. I hope all Members have a copy of that, and it is rather a formidable piece of legislation, if I may say so, I haven't read it, I may have to promise that I won't read it but I don't know. The idea would be to have a general discussion on the Select Committee's Report and the Bill that is attached.

MR SPEAKER:

May I perhaps say that of course the Report did not have a Bill attached to it. I think the Bill has been prepared as result of the recommendations included in the Report.

HON CHIEF MINISTER:

Yes, it has been circulated to Hon Members and I think it can be presumed that it is part of the Report and therefore my idea is that we should have a discussion, a general debate on the Committee's report in the July meeting, that thereafter we should publish the Bill if it meets with the general approval of the House that it should so be published as a Bill, in green, as a proposal for the change of the law, and that we should have the first reading and second reading at the first meeting after the recess and then have the Committee Stage and third reading at the second meeting after the recess. That will take us to about October, presumably, not earlier than that. That will have some repercussion in an amendment to the transitional powers that is before the House now. I cannot see that Bill or anything that comes out of the wash with representations and so on being put in the statute book before October or November, one has got to be realistic about these things. It is not only like

in the case of the Divorce Report which you agree in principle and then the matter is debated, this is a matter that goes to the root of standards of land tenure and land occupation and rents and so on which can have a very dramatic effect on the economy, generally, and I think there should be ample debate on that. The fact that it has taken so long for the report to be produced is just one of those things but that should not deprive the people from public discussion on a matter of this nature.

HON M K FEATHERSTONE:

Sir, with your leave, I will withdraw the motion and we will put it forward again for the meeting in July.

This was agreed to.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move the motion that stands in my name which is: "That this House approves the Report of the Select Committee on the Matrimonial Causes Ordinance and the recommendations contained therein".

MR SPEAKER:

Do you wish to speak on the motion?

HON ATTORNEY GENERAL:

I was going to speak, Mr Speaker. Honourable Members will have the report tabled by the Select Committee in this House and I would like briefly for the benefit of the House to outline the salient points that are contained in the report. The present Matrimonial Causes Ordinance has been in force since 1962 and essentially I think that offers four main classes of remedy to people who are suffering serious matrimonial problems and if I can summarise them for Members. The first, really, is to bring to an end a marriage that has ceased in real terms to exist. That is the most serious step that can be taken. The second is take a step that is less than ending the marriage but which nevertheless releases one of the parties from the obligation to live with the other party, and the other two major remedies which are contained in the present Ordinance, which are really ancillary to the first two are to make arrangements for the custody and the welfare of the children of the marriage, and I use the term children in a loose sense because sometimes they are children of the husband and wife, sometimes they may be the children of one or other of the parties and, finally, of course, a great practical consideration which is a feature of the present Ordinance, is to make financial arrangements for the children. The major remedy, I think, is to say one way or another that a marriage has come to an end and that can be done in one of three ways. One is to say that the marriage is to be annulled. Another is for the court to

find that the husband or the wife has lived apart from the other party for seven years and has not been heard of and therefore is presumed dead and the third way, of course, by granting a decree of divorce. So far as the first two of those are concerned, I think that they cause no particular controversy because they are both based on the premise that there wasn't a valid marriage in the first place or that one of the parties has died and therefore there are no longer a husband and wife alive but it is the third of those major remedies which of course is the most controversial and that is divorce and the reason, I think, it is controversial and a serious matter is obvious enough and that is simply because our concept of marriage contemplates that it is a permanent relationship while the parties are alive and divorce is the one remedy in the law which while the parties are alive has the effect of saying that the marriage is finished. The first point I want to make about the present law, Mr Speaker, is this, that Gibraltar's present Ordinance already recognises the principle of divorce, but it does so on specific grounds and those grounds are of two kinds. First of all, it will allow a divorce if one party has committed adultery and that can be either the husband or the wife, or if the husband has committed rape or what is sometimes called the unnatural offences it will allow a divorce by the wife but they are the only grounds on which it is possible to get a divorce under the present law, Mr Speaker, is that it is based on the concept of fault, in other words, if one party commits what is sometimes called a matrimonial offence, that party is at fault and subject to certain rules the other party is entitled thereby to a remedy. That is a feature of the present law. The one other matter I would like to stress is that the present law is not in any real sense concerned with the prospect of reconciliation between the parties, it is not concerned to say: "this marriage is in trouble therefore let steps be taken to try and resolve that trouble and bring the parties together", it is really concerned with saying the marriage has come to an end on one of the grounds I have just mentioned therefore this party is entitled to a divorce, I am talking about the divorce situation. Those are the particular features of the present law I would like to mention in moving this motion Mr Speaker: I would also like to address one other point that we had to consider in the Committee and that is our functions in relation to the civil law and the ecclesiastical laws because, as all Members know, in Western society marriage is not merely a matter of civil law, it is very widely held as having spiritual elements. All I would say on that is that in the work of the Committee we settled the work on the basis that our function was to consider the civil rules of law and not the ecclesiastical rules of law so that the report has predicated on that basis. In proceedings on our work we had three types of witnesses. We had people who had particular problems and came to us to give oral evidence or sometimes wrote to us to outline their particular problems to us, and other personal problems, problems that affected their own marriages or friends marriages. Apart from that we had a number of oral submissions and a good many written submissions from people who had views on the principles of catholic marriage most notably the churches of course, public and social institutions and other people including people who work professionally in the field of marriage counselling or marital problems such as doctors and marriage counsellors. As far as

possible we thought the best approach was to look first at the particular problems that people brought to us so that we would have some insight into their problems and then go from there to the more general considerations and that is the way we have dealt with the matter. Mr Speaker, I think it is well known that in recent years throughout the West, there have been a number of changes in matrimonial law and I don't mention change for the sake of change I mention that because there has been a lot of research done into the state of matrimonial law and, of course, we have the benefit of being able to look at what other countries have done and in particular the United Kingdom. We have done that but we have not done that automatically in the sense of saying that because it was done there it should apply here. We have drawn on the United Kingdom idea that it would be unrealistic not to acknowledge that the recommendations we have come up with are based on changes that have been made in the United Kingdom but we have not looked at them simply on the basis that we must follow them because they were adopted in the United Kingdom. We have proceeded on the assumption that a marriage, in the western sense of the word, is a fundamentally important social institution in Gibraltar, as elsewhere, and one of our major concerns has been to make recommendations that will uphold the institution. When we heard the evidence certain things became quite clear to us and I think the first of these was that there are in Gibraltar, I wouldn't talk in actual numbers but there are in Gibraltar people who are suffering severe matrimonial problems and are suffering severe unhappiness because of their matrimonial problems for reasons which are not necessarily attributable to the grounds which at present constitute grounds for divorce. I think there are three recognisable situations where people have these problems but which have nothing to do with adultery and one and perhaps the least of the three is the case of desertion. You have cases where somebody has deserted the husband or the wife for a long period of time so that there is no real prospect of the couple getting back together again but of course there is no question of adultery having been committed, certainly no question of it being proven but in many cases no question even of it having been committed. A second is a more common ground, I think, is the case where a couple have got married at a very young age and normally of course that would be the girl who gets married at a young age. The law in Gibraltar at present does enable a girl to get married at the age of 14 years and it was quite noticeable that there are cases where this has happened and of course usually it is because of a pregnancy and because the girl was so young when she got married and sometimes even the boy who was young as well, they had not entered into the marriage with a full appreciation of the responsibilities and the obligations that entails. And the third category which is not really covered by the present law and which I personally have the impression, and I think that the Members of the Committee will agree with me, is possibly the most important category, it is the case where the couple are incompatible and by incompatible I don't mean that in a light sense but incompatible to the extent where it is causing very serious matrimonial discord in the family. Incompatibility is an expression which people do get nervous of because it can be used loosely but I would like to state that in the case that we are talking about, the cases that we have in mind, we are talking about serious incompatibility

that really breaks down the harmony of the house in a very serious sense. In addition to that there was evidence to the effect that while normally children would be less able to develop in the ordinary way within the stability of a marriage, there undoubtedly are cases where the marriage is so unsound that the best solution for the child's happiness is to go with one of the parents to the exclusion of the other and start a new life. This is a matter which caused us a lot of concern but in fact the evidence that we have is that clearly there are cases where it is undoubtedly the best solution. Finally, Mr Speaker, on looking at the evidence, summarising the evidence, I would make the point that there were a number of submissions to the effect that there was concern that if the divorce laws are liberalised that it would gradually erode the social fabric, in other words, that to widen the grounds for divorce would encourage an increasing lack of responsibility and an increasingly casual relationship between people and therefore would break down the stability of social life. Mr Speaker, our recommendations are set out in the report and the view that the committee came to was that there are clearly cases that go beyond the present law where the marriage relationship has broken down and for that reason we recommend the continuance of the principle of divorce but we also think that it is couched in the terms which are too narrow in the sense that they don't cover all the cases of real hardship and on the other hand are unsatisfactory in the sense that even though a party may be able to plea on one of these grounds for divorce such as adultery, it does not necessarily follow that the marriage should be treated as at an end because of that. We looked at the English law and our recommendation was of course that there should be a single ground for divorce introduced, mainly irretrievable breakdown of marriage, and the report so recommends. The object of that is to try and advance the principle which will support marriage where it has not broken down but will allow a rational ground for a divorce where it has broken down and in doing that, of course, we introduced a number of what we saw as safeguards. In particular we felt that the cases in which a person should be able to seek a divorce because of irretrievable breakdown of marriage that was attributable to unreasonable behaviour should be strictly defined because unreasonable behaviour is a loose term, a flexible term, and we felt that it would be better to err on the side of caution and actually spell out what constitutes unreasonable behaviour. At the same time, Mr Speaker, we were also concerned that apart from restating the ground of divorce we should recommend measures that were aimed at encouraging reconciliation and in broad terms what we have done here is to recommend, first of all, that certain duties should exist on the part of legal advisers who find themselves dealing with people who are contemplating a divorce and, secondly, that the courts, and when I say the courts I mean the Supreme Court, should have the duty at all times when considering proceedings for divorce to have regard to the question of whether or not it is possible for the parties to reconcile with each other. How realistic that is in particular cases I think remains to be seen, I think elsewhere my impression is that it is a lesser rather than a greater number of disputes which are resolved through reconciliation but we were concerned to emphasise the need, the importance of having provisions for reconciliation and so there are these two elements in the legislation as such,

(a) place duties on lawyers, and (b) to place an obligation and powers on the courts. Going outside the law as such we also have made recommendations concerning the availability of marriage counselling facilities in Gibraltar. They exist already, of course, but we have made, as it were, by way of an aside, recommendations for extending marriage counselling in Gibraltar. The other particular matters I would like to mention, Mr Speaker, are that we have also recommended following the wider English provisions that relate to the custody and welfare of children in the event of proceedings under the Matrimonial Causes Ordinance and also, I would say, the rationalising of the laws relating to financial arrangements because at the moment in Gibraltar the arrangements tend to be not necessarily equivalent, the rights of the wife are not necessarily the same as those of the husband and our recommendations in this respect are really aimed at putting the husband and wife on a par. It doesn't mean of course that husbands will be able to obtain alimony when they get a divorce but in principle we think that the powers of the court should be the same in respect of both the husband and the wife and so the Report contains those recommendations. Because it was noticeable in the evidence that was before us that some difficulties in marriage are clearly applicable to one of the parties and more particularly the girl marrying at a very young age, we have also made recommendations in relation to the minimum age of marriage. The recommendation is that it should be raised to fifteen for a girl, it should remain at sixteen for a male but that permission to get married under fifteen for a girl should be given only in exceptional circumstances and should be given by the Supreme Court rather than by anybody else, there is a recommendation to that effect. Although I have dwelt on divorce, Mr Speaker, that is not the only remedy which the Ordinance contemplates and under the present law there is a difference between the grounds on which one can get a divorce and those on which one can get a separation. If the context of irretrievable breakdown of marriage were adopted as the standard for divorce, then it seemed to the Committee that there was every reason why the ground for judicial separation should be reviewed so that it was the same basis as the basis which obtains for a divorce subject to this important reservation that you should be able to get a judicial separation whether or not the marriage has broken down irretrievably whereas of course in a case for a divorce you would also have to satisfy the Court that the marriage has broken irretrievably. One other matter I should mention, Mr Speaker, is the rather quaint, if I may say so, remedy of restitution of conjugal rights which in principle is a remedy available now which directs a husband or a wife to return and live with his partner which is, I think, a rather unrealistic remedy to try and enforce. Its main practical purpose is that it can be used as a basis for subsequently getting a separation. It has been abolished in other places, statistics show it is hardly ever invoked here and in recent years there has only

been one application, and if the Report is adopted, Mr Speaker, part of our recommendations would be that there would no longer be a need for this particular remedy. Mr Speaker, I have moved this motion with some trepidation. I don't know whether this House may be aware that the last Attorney-General I know of who was rash enough to move a motion on matrimonial causes was Solly Flood, who was Attorney-General in Gibraltar in the late 19th century, and it was pointed out gently to me that after he made his recommendations he shortly thereafter left Gibraltar so I have gone forward with some reservations, Mr Speaker, but I commend the Report to the House.

Mr Speaker then proposed the question in the terms of the Honourable the Attorney-General's motion.

MR SPEAKER:

Is there any Member who wishes to speak on the motion?

HON J BOSSANO:

I would have thought, Mr Speaker, that the views of the members of the Select Committee are known in print. We want to know what the people who are not in the Select Committee think.

HON CHIEF MINISTER:

In the first place, Mr Speaker, it was made clear at the time when the original motion put by Mr Bossano was concerned, as far as we are concerned I think it is the same case on the other side of the House, this was a matter of conscience and there is no party view on this matter, people should vote according to their conscience in a matter of this nature. For my part at this stage, I will have more to say in another context, at this stage I would like to congratulate the members of the Committee and particularly the draftsman of the Report, it took a rather long period of gestation but it was a lovely little child that was born as a result of that. I am sure that all of you had a little part in the process but any Legislature of any territory whatever its size would be proud of a Report of this nature whether you agree with the contents of it or whether you do not agree with the contents. I think the Chairman and the members of the Committee are to be commended for a very good piece of legislative work which whatever the results or the outcome of the thing will stand as one of the landmarks in the work of this Legislature. The first thing that I think is particularly important is that this is a unanimous Report. Very few people when the Select Committee was appointed and when we attempted in all fairness to reflect the various shades of opinion of the House, hardly thought that a unanimous Report would be produced and I have had it confirmed from Mr Featherstone that he has subscribed

to this Report but perhaps because he saw the problem at a close quarter in the course of the long deliberations of the Committee that he was convinced. Sometimes it is the lack of knowledge of situations that make legislators deal with different matters, others may feel very passionately about it whatever they hear. I think it is a tribute, as I say, to all the Committee that it was possible to come with a unanimous view. With regard to the Bill which is attached, again in accepting the Report it accepts that the Bill as it will be published as a proper Bill later on and it goes to First and Second Reading and then give time for reflection in various matters of detail. I have not compared all the provisions, I see that some of the later provisions in the United Kingdom regarding the question of the sharing of property and so on has been left rather more for the future with only a slight reference, but I think enough reference for the moment, but we would like to see that and if and when the Bill is published I hope it will be possible to provide on the margins those sections of the English law which have been incorporated because it will be very useful particularly if it becomes law in arguing particular cases before the Courts if you know that a section has been listed from an English Act on which there have been a number of decisions. This is always very helpful when appearing before a Court and arguing our own Ordinances, those which do have a base on the English Acts. I spent two and a half hours yesterday afternoon in an appeal comparing a section in the Gibraltar law to a section which ceased to be law in 1923 in the United Kingdom which is law here but still the decisions that were taken on that section, as indeed many decisions that have been taken in sections which have been taken from the English Act, would be a great help for doubtful cases. As I say, at this stage I would like to welcome the Report and say that Members of the Government are completely free to vote in this matter in accordance with their conscience and to say that certainly the results of the Select Committee has been a very lucid, human, humane and worthy Report.

HON P J ISOLA:

Mr Speaker, it was my intention, in fact, to speak on the amendment of the Minister for Economic Development of which we have been given notice, an amendment in respect of which I have a lot of sympathy but I should perhaps say something whilst reserving my right to speak on the amendment on the matter. As far as the members of my party are concerned we have a completely free vote on the issue of divorce, there is no electoral mandate on divorce as far as the Party is concerned, there is no party line on it, the whole issue is being left to the conscience and to the good sense of the members of my party and therefore the views I express in this are my own personal views. Mr Speaker, may I say that the Report has been extremely well written, we have been given reasons for the recommendations that the Committee have put forward to the House, they have been carefully drafted,

carefully martialled and extremely well presented. I hope that my disagreement with the conclusions of the Report of the Select Committee is not taken as any reflection on the hard work that the Committee have put into the formulation of their Report and the careful explanation they have given of the reasons for their recommendations and also the careful manner in which they have tried to mitigate the effects and the undoubted harm that will result to Gibraltar society as we know it from what virtually will be easy divorce. I know the Committee have taken great care to show that they are not promulgating easy divorce. I think they have taken care to show how they restrict the ability of the people to get divorced, for example, in the first five years of marriage but unfortunately, Mr Speaker, the facts and history are against them. The Committee, I was pleased to see, in paragraph 27 of their Report they say: "In the first place, we consider that it is axiomatic that marriage is a fundamental institution in Gibraltar society" - and I would add 'in any society' - "By marriage we mean the relationship we have referred to as the voluntary union of one man and one woman intended at its inception to be a permanent union for life. We believe this to be the basis of family, social and spiritual life in Gibraltar" - and I would add 'and elsewhere in a democratic society' - "and that the law should be concerned to recognise this institution. We also consider that care is required in recommending changes to the law governing marriage because such changes may have an effect on the stability and well-being of society". I would, Mr Speaker, endorse every single word in that paragraph of their Report. I think they have projected the ideal perfectly. There is no question about it, I am sure all Honourable Members will agree, that a stable society demands stability in marriage and stability of the family unit. I am not going into the religious aspects, the Christian principles or non-Christian principles, or anything else on marriage, I am going on what I think every Government in every country believes to be the fact that the family as a unit is the most stabilising factor in any society. This, I think, is basic and I am glad to see that the Committee accepts that premise, and because they accept that premise they recommend such things as marriage counselling, preparation for marriage, after marriage breaks down obligation on the part of the lawyer to ask the client whether there is any chance of a reconciliation, the introduction of the Church as a conciliatory body, all aimed at preserving the marriage. I applaud the Committee for recognising the need for these counselling services, the need for these advisory services, the need to keep a marriage going as far as possible and I should here say that one thing I must disagree with the Report of the Committee, that the lawyer is a good person to give advice on the matter of reconciliation. My own experience as a lawyer is that somebody comes into my office and tells me what a terrible man her husband or wife has been, gives you a story which you immediately believe, makes you horrified about it, you say:

"Well, cannot there be reconciliation?", they say: "No chance at all. Look at this" and you get a black eye here and something else there and you immediately say: "Right, into Court we go, we'll teach this man or this woman her business", and you issue proceedings and fifteen days later the person comes in and says: "Look, forget all about it we have now made it up, we have reconciled". The lawyer I don't think is a very good vehicle here but, anyway, if lawyers can help obviously this is an extremely good thing but I am glad the Committee stressed in their Report their aim to keep marriage going and their aim to have counselling services and so forth. All that part of the Report, Mr Speaker, is excellent, in fact, the whole Report is excellent, it is very well reasoned out and very well argued out. Mr Speaker, my only problem is that I don't think the conclusions support the premise, the premise being to keep a family stable, to encourage the family unit in society and the reason I say that is not out of any disregard for the members of the Committee and for their efforts but unfortunately history is against them, the facts are against them. The recommendations of the Committee are that there should be only one ground for divorce which is irretrievable breakdown of marriage. That ground for divorce, Mr Speaker, is basically that enshrined in the Divorce Reform Act in England of 1969. I agree they have suggested certain slight variations which are intended to help matters go further but basically what the Committee have recommended is the Divorce Reform Act of 1969. What happened in England where I am sure the Commissions on divorce had the same laudable motives as our Select Committee? What are the facts, and I read from a pamphlet, I won't say who it is issued by, perhaps I should say that it is the Conservative Political Centre, a Report by a research sub-committee of the Society of Conservative lawyers. They are quoting facts. I picked it up in London in one of my visits there. It says: "In 1968 there were 55,000 petitions filed in England and Wales for divorce. By 1979, that is ten years after the Divorce Reform Act which streamlined divorce and had the same ideas as the present report, by 1979 there were 146,000. In a period, Mr Speaker, of barely just over 10 years, the petitions had gone 3 times up, from 55,000 to 146,000. In 1977, 129,000 petitions resulted in decrees absolute compared with 356,954 marriages in that year, so that the ratio of marriage to divorce was 3 to 1. These figures should be compared with some 29,000 divorce petitions filed annually in the late 1950's. The couples divorced in 1975 had 202,475 children of whom 145,096 were under 16. The total number of adults and children directly affected by divorce in that year, that is 1975, was 443,519, almost equivalent to the population of a city such as Bristol. It is impossible to argue, Mr Speaker, logically, in my mind, that we support the institution of marriage, we support the stability of the family and we support the institution of a family as being absolutely necessary in a society and at the same time bring in a piece of legislation that makes possible, much more possible and much more easily the break-up of that

family, the break-up of that institution. There was a report published about 3 weeks ago and I can't remember the report, I don't think it was from the Conservative Central Office, I think this was from somewhere else, some statistics Office, where it said, "In England today, one in five children can expect to reach the age of 16 with the family broken down, the parents separated or divorced". One in five of children do not reach the age of 16 without having had the traumatic experience of the break-up of their parent's marriage. These are the statistics, Mr Speaker, these are the statistics that have occurred without any doubt in the United Kingdom since the Divorce Reform Act was passed in 1969, so that it is no use, in my view, and I am trying to argue logically, or ruthlessly, or whatever word one might like to use, it is no use promoting and holding up as the ideal of society a stable family life and a stable marriage and in fact doing quite a lot, which I can see the Committee do do to maintain that stability and that permanence in marriage but then, unfortunately, allow easy divorce with consequences that the records in other democratic societies have shown to be disastrous for the institution of marriage. That is my basic objection of principle to the report and that is that if we consider the family to be the foundation of our society and if we consider that marriage as an ideal, I don't say it happens in every case, that marriage as an ideal is a union for life and that that is the vital link which binds the family then, obviously, easy divorce will not further that objective. If there is a failure to live up to the ideal, Mr Speaker, of stable family life and the permanence of marriage, if marriages break-down or are unstable, then the whole of society is weakened and that, I don't think, is desirable. I have not got a solution, Mr Speaker, don't think I have, I think that the experience of democratic societies, take the case of the United States of America and now the United Kingdom, of easy divorce has tended to weaken marriages, has tended to disrupt the family as the main unit in that society. I know it is argued, by many that in societies where the family unit is maintained and is stable, that it is a forced stability, it is a forced situation where people can't divorce and therefore, of course, there are very few divorces. I know these arguments are used, Mr Speaker, but I cannot believe, for example, that in a situation as in the United Kingdom where you could get a divorce before the 1969 Divorce Reform Act, on the grounds that you did not like the toothpaste your partner used in the bathroom because it upset you and that amounted to cruelty, or the way he washed his teeth amounted to cruelty, and you could get a divorce on those grounds, I cannot agree that the Reform Act of 1969 suddenly liberated a lot of people who could not have got divorced before under the existing legislation. It just wasn't the case. What the Divorce Reform Act did, and it was logical, I agree, it is absurd to have all these grounds there used to be before of how many people would get a decree of divorce. But be that as it may, the Divorce Reform Act bringing the general ground of irretrievable break-down of marriage, what it did, Mr Speaker,

and the statistics are there, was to increase the number of divorces 100% over a period of 10 years in England. If you genuinely believe, if you genuinely promote the idea of a stable family life, if you generally promote as the committee, I believe, generally promote the idea of the permanence of marriage, then, Mr Speaker, the facts are against them in putting in a report suggesting the amendment of a law which requires and which will bring about in Gibraltar a great number of divorces and I think this is recognised by the Committee who suggest there should be an additional judge to deal with divorces for the time being. I am afraid, Mr Speaker, I fear for the stability of our society as we know it, with easy divorce. I said Mr Speaker, that I did not have solutions in the sense that I recognise that there are cases, very hard cases, where marriage has broken down and it is impossible for one partner to live with the other I recognise that and it is very hard and very difficult and at the moment the law only allows divorce on the grounds of adultery and what we are told is, well, if one already has a ground of divorce, adultery, one already has it, all we are doing is amending it, bringing it up to date, and so forth. There is a lot of logic in that argument, there is a lot of reason in that argument if I could be persuaded, Mr Speaker, that the result of that legislation is not going to be the rate of divorce that the United Kingdom has experienced when it changed from all the various grounds that existed up to 1969 and which had plentiful divorce cases in the courts, when it was all changed dramatically to a complete deterioration in the situation of the family with the consequent suffering to the children of the marriage. That is a factor that the Committee in their deliberations have not given up, in my view, as much attention as they might have done, the effect on children of divorce. Mr Speaker, the effects on children is I think the most serious aspect of easy divorce, the effect of children to the marriage. Children are prepared to put up, in my view, they are prepared to put up with a lot to keep their parents together, to keep the two sides of the marriage together. They are prepared to put up with a tremendous amount and they do in many, many cases. I agree there are cases where it is just impossible to keep the marriage couple together any more and then marriages break-down. But think, Mr Speaker, of the disastrous consequences where there are children of a marriage that one partner suddenly decides that he has had enough of the other partner, for no particularly good reason, and wants to go away. Should it be easy for that to be done Mr Speaker? The Committee say no. They say no and they bring in a certain numbers of protective cover, as it were. But the truth of the matter is, Mr Speaker, that the Divorce Reform Act of 1969 in England provided and brought about easy divorce with all the consequences for society in England. And it will have the same effect here and it is impossible to predict, Mr Speaker, it is impossible to predict the effect of easy divorce on society in Gibraltar because until we have it we do not know what will happen. But in England they have it and a sub-

committee of the Society of Conservative Lawyers, lawyers, in other words people who have experience and have been in and out of the courts on divorce, were sufficiently concerned about the effect of the Divorce Reform Act 1969, over a period of 10 years in the United Kingdom, to recommend a new Royal Commission on Divorce and they did their general conclusion and I quote; "The family is the foundation of our free society. For the great majority of people in Britain the family is formed by the institution of marriage, which is a union for life and is a vital link which binds the family. The past decade, that is, since the Divorce Reform Act of 1969, the past decade has been an enormous rate of marriage break-down and marital disharmony. The financial consequences of this alone to say nothing of the human misery, calls for enquiry. At the same time, the state has actually withdrawn from buttressing marriages and the future of marriage is now being questioned. The state must now decide whether it should resume responsibility for preserving marriages or whether it should go so by providing a network of support for the family and by reform of the divorce laws". This report poses these questions. "(c) Is it time for an enquiry? and (b) Should a Royal Commission be appointed to study the problems and to report within a limited period on marriage, divorce and the family. The answers must surely be yes". Mr Speaker, this is just a sector of people in England, how they are thinking. I do not know what labour lawyers would say, I don't know what Communist lawyers would say, I do not know. But this is a sector who have gone into the problem, have gone into statistics and say that after 10 years of this, in the United Kingdom, we feel that the foundation of our free society is threatened. Mr Speaker, I believe that the Select Committee seriously have considered all their recommendations, have gone into it bona fides and in the very best of intentions recommending a legislation which they feel will still promote the idea that marriage is a fundamental institution in Gibraltarian Society. They have proposed legislation which they feel will help further that aim. My quarrel with them is that the fact of another society that did just that in 1969 has been wrong, disastrously wrong and I ask the question; are we entitled without a mandate from the people, without it being party political policy in any party except that of my Honourable Friend Mr Bossano, but I know notice that he has made that party political policy without first submitting it to the electorate, but apart from his party are we going to pass a piece of legislation which on the face of it looks fair, looks reasonable and looks necessary, depending on which way you look at it, when we know the disastrous result that it has had for the stability of society, the stability of the family and the stability of marriage elsewhere. My answer, Mr Speaker, is, I express my gratitude to the Committee for the very hard work they have done, I admire very much the efforts they have made to preserve that principle of the family as being the fundamental institution of Gibraltar but with the greatest of respect to their deliberations and explanations, I cannot agree with their conclusions.

HON J BOSSANO:

Perhaps if I stand up at this stage the Honourable Minister for Economic Development might decide not to proceed with his amendment. Let me say Mr Speaker, that as a Member of the Committee I am speaking not on behalf of the Committee but on my own behalf. I think that the views of the Committee, the collective views of the Committee are those which we produced in the report which was a consensus which I think took into account the fears that have been expressed by the Honourable and Learned Leader of the Opposition and in spite of all his nice words about the sterling work of the Committee, what he is saying at the end is that he is consigning it to the waste-paper basket and that, to me, Mr Speaker, means a total waste of 3 years of work and, in fact, a slap in the face for the people who came and were totally honest with the Committee in explaining the problems that they faced. And it is not enough, I think, Mr Speaker, to say: "We know there is a problem, I do not know what the answer is, but the answer cannot be this because in UK there have been more divorces after the law was reformed than there were before". Well, it is obvious that there are more divorces. When we are enquiring whether there is a need what we are enquiring is whether there is an unsatisfied and genuine demand which society should be meeting. If there was no increase in divorces, there would be no need to change the law. But are we talking about families breaking up as a result of the divorce law, or are we talking about eliminating the hypocrisy of not recognising what has already happened because that is what we are talking about. We are not talking about an increase in family break-ups, we are talking about giving people an opportunity to re-marry. I made this point three years ago in this House of Assembly, Mr Speaker. When we are talking about divorce we are not saying that people who are happily married are going to be forced by the state to separate. People have got the right to live separately now. We had people coming to the Committee who have got grandchildren, Mr Speaker, from their second wife except that society does not recognise the second wife, it still recognises the first one with whom he has not lived for 30 years. What right has the electorate of Gibraltar to deny a person like that the official recognition of the de facto situation. I cannot understand how anybody can explain to me how that will bring down society or how anybody can be asked in a referendum to determine that. That, to me, is inconceivable. I honestly believe Mr Speaker, that the Committee was impressed most of all, certainly I was, by the genuineness of the individuals affected. The evidence is there and the Committee decided that we had to respect the confidentiality and make available the report but not the actual cases and not the actual evidence. But I would say that if there are members who have still got doubts or reservations, then the Committee should seriously consider making the evidence available on an equally confidential basis to any Member of this House that is still not convinced because I am absolutely convinced in my own

mind that anybody who reads those cases would have to be made of stone not to see the need for responding. When you have got a situation where somebody tells you, Mr Speaker, that they have been separated from the husband 3 months after being married and being left with a child, and that they have been told by a lawyer that if they invent adultery they can get a divorce but they are too honest to invent adultery, how can we say in this House, "Well, no, because we must stop people divorcing so you stay undivorced unless you are prepared to commit another crime by lying under oath in court", or else the House recognises the problem there but are not willing to do anything about it. I think it is in fact wrong and it makes a nonsense of the stability of marriage as an institution and of the family unit in a society if, in fact, we all know and many Members of this House know professionally that this is the case from personal experience of cases who come to them for advice and help in a professional capacity, if we all know this is going on and we chose because it is more convenient to look the other way. I think the House has got an obligation, Mr Speaker, to put leadership in this case, I think the Select Committee has given everybody ample opportunity to put their case. And let me say that although we have been talking on more than one occasion here in the last motion 4 years ago about the thing of not being a question of religious belief intervening, it being purely a question of a belief about the importance of the family unit and the importance of the stability of society, the fact of the matter is, Mr Speaker, that of all the people who came to the Select Committee, all the ones who were against were of one denomination. All the ones of all the other religious denominations who are also members of our community all came to give evidence in favour of reform. It so happens that only the witnesses who were Roman Catholics were the only witnesses who came along and told us; "It has nothing to do with religion but I don't think it has got to be changed". But the people who came up from the Anglican Church or the Jewish faith or of any other religion, they all came and told us that they were in favour. It might have had nothing to do with religion but there was a clear coincidence which the Honourable Member, who likes using statistics so much, will see that there is a correlation between these two things. What astonished me, Mr Speaker, because it was a new discovery as far as I was concerned, in having the official position of the Church explained to me, which finally convinced me once and for all, was that, in fact, the church does not recognise a civil marriage between Catholics which is not consecrated in church. As far as they are concerned they are quite happy to marry in church somebody who has been married in the civil registry before if those people can get divorced except that the law does not allow them to divorce. What the church permits the law does not permit and what the church does not permit the law does permit and it seems to me that the biggest group in society which is the Catholic group in our community, tells me as a Member of this House that as

far as they are concerned if Catholics marry in the civil registry they do not recognise that that is a marriage in the eyes of the church, it is not a sacrament, and therefore they consider them to be living in sin and they forgive them because they are sinners and they remarry them to somebody else. Except that if they did it that would be bigamy in the eyes of the state but nothing wrong would have been done in the eyes of the church. The church does not recognise non-Catholics having the right to re-marry because as far as they are concerned since they are not Catholics their civil marriage is valid. So what is the church then saying? That they object in fact to the only group that they have got no jurisdiction over, which is the non-Catholic group who themselves do not object. I know that it has been said before that it is not the religious view that counts. I myself think, Mr Speaker, honestly, that people may not be able or may not wish to put across the view that it is a question of conscience that enables them to put forward an argument against it but I honestly believe that you cannot separate the two things because of the coincidence of where the arguments come from and the religious views of those who put the argument. I think that the position of the church is a matter which concerns me not at all, it is a matter for people who are practising Catholics to ensure that they obey the teachings of their own religion and I respect everybody's religion whether they are Jewish or Muslim or Catholics. As far as I am concerned it is irrelevant. I treat people for their integrity as human beings and not for the colour of their skin or the religion they profess so that is not an issue. And I said, Mr Speaker, answering the last point made by the Honourable Member, I said in 1980 that although it is a policy of my party and we are committed as a party to reforming the divorce laws which we consider to be completely out of step with the realities of modern life, although we are committed, I didn't think it was a good thing for Gibraltar to fight an election campaign for or against divorce because then I think we would be pushing the church, whether they like it or not, into coming out and advising Catholics how to vote. And unless we have one single issue then we have a situation where people may agree with three quarters of the manifesto but they are told by the church, as happened in Malta at one stage, that they would be committing mortal sin if they cast their vote in a particular way. That is not a situation we want to encourage in Gibraltar and I don't think it is right that we should make this an election issue but, certainly, if the House does not pass the legislation and if there is an election in the course of next year, my party will be including it in its manifesto, there is no question about that.

MR SPEAKER:

We will now recess for tea, after which we will continue the debate.

The House recessed at 5.15 pm.

The House resumed at 5.50 pm.

HON A J CANEPA:

Mr Speaker, in considering this report or for that matter the whole issue of divorce, I want to make it abundantly clear that I am setting aside my own religious beliefs which as I am sure is well known, are based on the teaching of the Catholic Church and which I accept as a practising and committed Christian. I am therefore more concerned to approach the matter here this afternoon from the social point of view and I have no difficulty in doing this because I do not think that I should impose my religious beliefs on (a) those who belong to another faith and which may permit divorce, or those who belong to no religious faith or who having practised in the past their religious faith, now do not do so and therefore do not any longer accept the rules of the club to which they once belonged. I note and I welcome the fact that the Select Committee have been concerned to promote marriage as an institution and that they recommend certain important measures in this respect but I predict that what would obviously follow the implementation of Committee's recommendations is that there would invariably and inexorably be a sharp increase in the number of divorces over the years. The situation may never become as bad as in the United Kingdom where the dissolution of marriages has now reached an alarming level with all its unfortunate consequent results. And although it is intended that more stringent conditions should be attached here in Gibraltar in the proposed legislation than in the United Kingdom, there will inevitably be pressure in the future to make divorce yet easier. Although I honestly believe that it will therefore become difficult to sustain the Committee's concern not to undermine the fundamental institution that marriage is, I am prepared to recognise that this report is a good report. I do, however, take issue with paragraph 80 of the report and hence the amendment which I shall be moving. Mr Speaker, during the 1976 election campaign, Mr Eric Ellul campaigned vigorously for the reform of the divorce laws and he was not elected. Had he been elected I think that Mr Ellul himself could have defended the argument that he had a definite mandate to follow up his election and to try to convince the Members of the House of Assembly. At least, he would have had a mandate to do precisely what Mr Joe Bossano did after the 1980 election even though, as is well known, Mr Bossano did not on that occasion campaign on the issue of divorce and, therefore, whilst in my view Mr Bossano had no mandate to introduce that particular motion, I think someone who stood for election as an independent and who specifically made the reform of the divorce laws an important plank in that manifesto, would have a mandate to try and pursue the matter here in the House. And for that matter I would also

say that not only Mr Bossano, neither did anybody else who stood for election in 1980 have a mandate because the issue of the reform of the divorce laws did not form part at all of that election campaign, certainly not in the case of the two main parties which were both silent on the matter. Mr Speaker, this by itself might not perhaps be a compelling reason as to why we should hold a referendum on this issue because either this issue or any other issue which might come up during the term of office of a legislature is one which the Governing party with its majority could pursue and the governing party could legislate on that issue even if they had been silent in their electoral manifesto, if that governing party considered that a majority of the electorate would be in favour and that therefore it would accordingly not prejudice its position at the next election. But what is significant, Mr Speaker, in my view, is that in fact the two main parties represented in this House have not since 1980 formulated a party view on the matter and as we have heard from the respective leaders this afternoon there is a free vote on this issue. It is this in my view, Sir, which provides the second and the stronger ground for a referendum to be held. Both parties have agreed to a free vote, or to a vote, as a matter of individual conscience, and in doing so they have not only shown that each side of the House is divided on the issue but have also in effect decided that Members of the House should act as individuals and not in a sense as politicians. In my view 15 individuals should not have the right to decide a matter of conscience when they do not know how those who have put them here in the House feel on such an issue. Every individual on the electoral register should have the opportunity to express his own view on the matter and that some will not in the event make use of this opportunity is a matter for them but it should be there, the opportunity should be there, for those who would want to utilise that opportunity. It will probably be argued that the electorate has been given two such opportunities by the Select Committee. But what the report does not do, what it does not attempt to do, is whilst just briefly describing the nature of the representations which it has actually received, it does not quantify them in any way nor does it state to what extent it was influenced by the arguments which have been put to the Committee. By implication, the Committee appears to have been swayed by those who favoured an extension of the grounds for divorce, and why was this? Was it because it coincided with its own view? In any event, many people who have a view on the matter either way will no doubt find it much more acceptable to express that view in a secret ballot and by giving a simple yes or no than to have pen to paper or appear before the Committee. As I say, Mr Speaker, the electorate have never really been given an opportunity to say whether they want reform of the divorce law at all and if so, whether they want it in this manner. And because of the divisions on what is essentially a matter of conscience here in this House, which are evident here in this House, and

outside, it should be decided in a referendum with a simple majority to decide. It is the device which is used elsewhere in Western democracies, though not in the United Kingdom, to decide on precisely this sort of issue. But all that has happened here is that a Select Committee has been set up which has heard the views of a small number who have given evidence to the Committee. How many have, in fact, been consulted? What percentage of the electorate do they constitute? They are evidently a minority, a minority which is affected by the present laws and which have naturally been vociferous in the past in the press and later on in the representations which they will have made to the Committee. But for those who believe otherwise it is not easy to write letters to the press against what may appear to be the tide of public opinion. To do that takes considerable moral courage for there is always the danger of being vilified in subsequent correspondence. I don't think, Mr Speaker, that the proper democratic processes will have been followed on this matter if we proceed to legislate without a referendum. The issue has not been adequately debated as it would in a campaign on the referendum or as it would in an election campaign, and the danger is therefore that a handful of men with a majority in the House but with no mandate, will vote the matter through according to their consciences. In paragraph 27 of the report, on page 7, the Committee has stated, and I quote "We also consider that care is required in recommending changes to the law governing marriage because such changes may have an effect on the stability and well-being of society". Therefore, Mr Speaker, because of the effect that it is going to have on that society I maintain that much wider consultation of society is required. They went on to say in paragraph 31: "Clearly if the law is going to be efficacious it must have the support and the respect of the majority of the community. In Gibraltar a substantial number of people are opposed to divorce on religious grounds. That may well be the case but in my view these people who are opposed on religious grounds probably represent a minority and in any case many of those are likely to be people who would not wish to impose their own religious beliefs on others and deprive others of the opportunity of having a marriage dissolved under rather more honest grounds than what we have under the present legislation. But I think that whether such proposed legislation has the support and the respect of the majority is a matter that should be gauged and that can only be adequately done through a referendum. But the crux of the whole matter, Mr Speaker, is to be found in paragraph 80 of the report where no doubt anticipating that I was going to move an amendment to hold a referendum, the Committee actually considered the matter beforehand and the Committee then had to say on this issue: "There is no doubt that there is a substantial body of opinion that is opposed to the concept of divorce. This is likely to be reflected in a referendum. In this instance we consider it to be particularly important for the House, if it is itself persuaded of the need for review, to

lead and form public opinion on the issue. In any case, we consider that in principle it is correct to do so in all but the most exceptional circumstances. Accordingly, we recommend that there should not be a referendum". Why, Mr Speaker? Is the Committee's reason for not recommending that there should be a referendum the fact that there is a substantial body of opinion that is opposed to the concept and that therefore they are afraid that if the question of reform of the law on divorce is put to the electorate in a referendum the matter will be lost? If that is the case it is quite astonishing. It is quite astonishing that the Committee would be seeking to overrule the majority. If that is the case, but I do not think that is the case and I do not think that the Committee would wish to say that the majority of people if they are likely to oppose a widening of the grounds for divorce they should not therefore be given the opportunity to do so. I think that that would be contrary to all democratic principles and in this case it would be the minority that will be prevailing. I know that many people oppose the widening of the grounds for divorce because of the ill-effects which they believe that this would have on the society of which they and their children form just as important a part as the relatively small number of people who are undergoing, and I quote the words of the Committee "real hardship and suffering" but I am disappointed that no regard seems to be had to the essential principle that bad cases or hard cases make bad laws. But where I believe that the Committee is fundamentally mistaken is in their assessment of the numbers who would vote against the issue of reform in a referendum. I am convinced that there is a majority in favour. I am convinced that even if the Catholic church were to mount a campaign against it it would not succeed. The numbers of practising Catholics is low, no more than 25%. And even amongst those there are many who though not wanting this reform for themselves would not wish to see it denied to others. I count myself amongst those. So if a referendum were held, there would be a majority, in my view, in favour and thereby I think that this would provide an essential and definite mandate for legislators and it would at least give the minority view, the minority opposition to reform, the feeling that they have not steamrollered as will be the case if we proceed without a referendum. As to the mechanics of the referendum, Mr Speaker, I think the question that should be put is more or less in terms of (d) of the amendment which I shall be moving and I think that it would be essential that a leaflet should be made available to the electorate in Spanish as well as in English, setting out paragraph 47 of the report which is the cardinal, the fundamental paragraph in the report of the Committee. Mr Speaker, for those reasons I therefore beg to move the amendment to the motion which I have given notice of, that all the words after "House" should be deleted and substituted by the following "(a) notes the Report of the Select Committee on the Matrimonial Causes Ordinance; (b) notes that no electoral mandate exists on the question of divorce; (c) notes that the two main parties represented in

this House have not adopted a party view on the matter; (d) accordingly resolves that a referendum should be held in order to ascertain whether public opinion is in favour of the recommendations in the report that the single ground for divorce should be that a marriage has broken down irretrievably and that a divorce should be granted in cases where the facts set out in the Select Committee's recommendations are established to the satisfaction of the Court." Mr Speaker, I commend the amendment to the House.

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

HON A T LODDO:

Mr Speaker, I am glad that the Honourable Minister decided to put in his amendment now as it means that I will speak once and only once. I welcome the report, I believe it has been done from a very humanitarian point of view and I go along with it unreservedly. I want to establish one thing, that I am not advocating divorce per se, in fact, I believe that everything possible should always be done to save a marriage. And unlike my learned friend, the Honourable Leader of the Opposition, I do not believe the first story that is told to me even be it by a weeping female or an irate male. Perhaps it is because once I remember very reluctantly being drawn into a situation where a marriage was breaking up and I remember advising my wife to look at the thing dispassionately because there are always three sides to a story, his side, her side and the truth, which as I believe I have said on a separate occasion lies always somewhere between his story and her story. I also believe that everyone getting married should be told certain things. They should be told that they are taking on a full-time job in the very fullest sense of the word. Marriage is a 24 - hour a day, 7 - days a week, 365 days a year, which one extra on leap years, where you are working at your marriage if you want to make it a success. Marriages don't just happen. Very few things in this life happen, you have to work. And it is this job that you undertake there is no recourse to the trade union, there is no overtime, no time in lieu, you work at it all the time. So, perhaps, if all these points were made forcefully to people entering marriage, they would not rush into it and perhaps even the fringe benefits would not seem so delightful. But the fact is, Mr Speaker, that most people do go in for marriage, some rush into it, and being human as we all are, we are subject to human error, and the younger you are invariably the more mistakes you make although there are some people who never seem to grow up, but the younger you are the easier it is to make a mistake and it is no good trying to give a lot of advice, really. You learn through experience and you start off married life at a young age and as I say you can make a lot of mistakes. If you happen to have a happy marriage, if you hit it off, if it all

works well, it is very good but if your marriage breaks down, if you just cannot get on, even after trying, you are supposed to be condemned to penal servitude for life, literally, because that is what it means, for life. Is there no remission? I think there is, and there should be. Mr Speaker, we are talking here today of reform, we are not talking of divorce, we are talking of reform because divorce exists in Gibraltar. I, perhaps, could understand a referendum if divorce did not exist. I say, perhaps, because Gibraltar, fortunately, is a multi-national, multi-religious society, which I think is good. As I said, if we were talking of introducing divorce, perhaps and only perhaps, I would consider a referendum. But let us examine the facts. (1) divorce exists, (2) we are trying to reform a law which is obvious to everybody now is antiquated and (3), which is very important, even the law as it is today doesn't affect everybody. The reformed law will not affect everybody. It will be there for those who need to make use of that law. And now be honest. Those people who oppose the reform are opposing it on religious grounds and I believe that the pro referendumists, basically, are doing it on religious grounds. But if we are going to talk of religious grounds, contraception is against religious grounds but we do not hold a referendum, we never did, to see whether contraceptives could be sold, and they are sold, the pill is sold. Have we held a referendum on vasectomy? I think we should be honest. Do we honestly believe that if we oppose divorce, if we oppose these reforms, that by doing this we are going to get a stable, happy family life? I do not think so. All we are going to do is to prolong the anguish and the agony of those people who need a divorce. Mr Speaker, I believe we have been elected to govern. Eight of us elected as the Government and seven of us as the Opposition to react to Government's policy, to offer the people of Gibraltar an alternative Government. But we have all been elected to govern Gibraltar and lead our fellow citizens from different sides of the House, but we all form part of the governing of Gibraltar and we should not be afraid to face problems when they come. We are not here just to agree to an increase in the price of petrol, or whether perfume should have 10% tax. We are here for the rough and the smooth. This, Mr Speaker, is a rough patch, but we should not shirk our responsibilities and we should not hide behind a referendum. If there is one Gibraltarian who deserves a divorce and he cannot get it because the law is inadequate, then it is up to us to change that law, the law then is inadequate and it should be changed. Mr Speaker, I am a happily married man but everybody does not have that same luck, if you could call it luck. I would wish that everyone who is married and those who are about to get married all the best, all the happiness, a bed of roses. Unfortunately, life does not work out like that. It has a habit of twisting itself for a number of people and I believe, Mr Speaker, that it is better to have a sensible divorce than an unhappy home. I think the trauma on the

children of a squabbling father and mother and the instability that that generates in the children is far worse than a sensible divorce where everybody agrees that the best thing for the children should be done but at the same time admits that they are human and that they deserve a human chance. Mr Speaker, I am happy to support this report in its entirety.

HON J BOSSANO:

I would like to speak against the amendment moved by the Honourable Member. Let me say that the Members of the Select Committee who considered the wisdom or otherwise of holding a referendum and who rejected the idea and said so in the report and signed that, took a decision, not I assure the Honourable Member, in anticipation of the fact that he would be moving an amendment. Quite the contrary. I have been absolutely shocked to find that he is moving an amendment because for me, quite frankly, if this amendment is carried we have wasted totally and utterly 3 years of our time and we have been misleading people in coming to the Select Committee to put the arguments for and against because those arguments cannot be put to the electorate in a referendum. What are we going to do, produce 10,000 copies of the report of the Select Committee and give each member of the electorate a copy and get them to read it before they go and vote? The Honourable Member is talking a lot of nonsense. He knows what is the most likely result of a referendum. The most likely result is that there will be a very high level of abstentions because most people don't care one way or the other and that there will be a concerted campaign from those people have got strong deep religious convictions and no other kind of objections to go and vote against, and there will be those who need the law changed who will go and vote because they need it for themselves. If they did not need it for themselves they would not vote either. So what we will get is a very low poll and a very large majority from those who vote against. And I can tell the Honourable Member to go and look at the evidence in front of the Select Committee and he will find that the Committee was presented with as he said, quite rightly, in quantity more representations against reform than in favour but in quality that was not the case because the representations against were totally manufactured. Identical letters, Mr Speaker, with different handwritings, word for word, the same comma, the same fullstop, and collections of signatures. Some of those people did not even know what they had signed because I made it my business to contact them personally. Is that what is considered to be democracy?

MR SPEAKER:

We must be careful as to what the deliberations of the Select Committee were because we are not in a position to go into that.

HON J BOSSANO:

I am not in a position to divulge the contents of the letter Mr Speaker, and I am not breaking any confidence, and I am not doing that. What I am telling the Member is that the Committee got letters manufactured.

MR SPEAKER:

Well, that is a matter of opinion.

HON J BOSSANO:

Well, I can tell the Members to look at the evidence. I am not asking them to take my view, I am asking him to look at the evidence that made the Select Committee decide the way it decided. It is no good setting up a Select Committee of this House, it is no good telling us in 1980 we must not rush into this, we must take the thing calmly, coolly give everybody an opportunity, let everybody come and put their case for and against, sift the evidence. We have spent hundreds of hours listening to people Mr Speaker. We have produced thousands of pages of evidence. We could have gone to a referendum in 1980. I think the Honourable Member is perfectly right, let us put to a referendum in Gibraltar whether there should be any divorce at all and the referendum would decide whether there should be no divorce at all. Let the Honourable Member put to the people in Gibraltar whether families that for some reason or another are constantly on social welfare, whether those families should be supported by taxpayers or whether taxpayers should pay less tax and have those families starve. There is no question about the way that people vote, people vote with their stomach, Mr Speaker, here and everywhere else. Political responsibility is with this House who is charged with doing a job and responding to the needs of all its citizens, all of them. What are we going to say to people: "Hop across the frontier." You don't have to go to get a plane to London now, we have now brought down the cost of divorce. Before they had to be above a certain income group, now you only need to walk across the frontier and get it in La Linea. Our statistics on divorce are sacrosanct, we still only have 24 in one year, which is the most important thing, to be able to say only 24 have been divorced in Gibraltar. How many have been divorced in England because they can afford it is irrelevant because it does not show in our statistics. I am telling the House, Mr Speaker, that to go ahead with the amendment of the Honourable Member is in fact to deny the people who have come to the Select Committee and given their views for and against, to deny them the result to which they are entitled which is the result of conscientious hard work by Members of the Committee who have looked at this thing from a purely practical and honest point of view of establishing whether the need exists and if that

need exists how that need should be met, and that is what this Committee says. It is no good saying that it is a very well done job but nobody has got a mandate. That point was answered in 1980, Mr Speaker, and I have repeated it today. I think it would be wrong to have a situation where we had an election campaign with all the other problems we have faced in Gibraltar, with the dockyard closure round the corner, the problem of the frontier, and we are going to ask people irrespective of whatever policies different parties have got, you vote for or against divorce. And we are forcing the church to take a stand which I think the church would not want to do. I think the church has made its position absolutely clear, which it is entitled to do, but it is speaking to the faithful, to the people who belong to the church, it cannot speak to those who do not belong to it, Mr Speaker, but it has to make its own position clear. If we take this to a referendum or we take it to an election, we force the church to take a stand on a political issue in a political arena about a civil matter where as I explained previously I am astonished to find out that in fact Catholics can get married in a civil registry, can get divorced in a civil registry and can remarry in the church because as far as the church is concerned the first marriage never took place. In fact, the church in that respect is far more liberal than the recommendations of the Select Committee because they do not lay down any conditions. We have not just said people can have quickie divorces in the style of California or Los Angeles or wherever it is they go in the States. They go in and out again in a week. We have not said that, we have listed a series of grounds which the court would have to decide whether they constituted an irretrievable breakdown. I can tell the House that I argued Members to reject entirely the proposal of the Honourable Member, and in fact I think that there is no way that justice can be done by going to a referendum and certainly if the House is going to back off this issue because they think it is politically not on then, certainly, I am prepared to commit myself with those people who came to give evidence to the Select Committee to introduce a Private Member's Bill for each and every one of them.

HON P J ISOLA:

Mr Speaker, I would like to talk at an early stage on the amendment because this is one of those occasions where people speaking only once is not a good idea because there are two separate issues really here. One is whether we approve or we do not approve the report of the Select Committee on divorce, and the other is whether we are entitled to make a judgement and proceed to legislate without some form of consultation with the people. I was enormously impressed by the moving and passionate address of my friend the Honourable Mr Lado. I think he argued very effectively and he is obviously in

favour of divorce and extending it and he does not need any further convincing. Therefore, the message that he gives is: "I speak once, I do not mind if I speak now or I speak afterwards but my message is that the report is fine, should be approved and should be passed." He did not unfortunately address himself to the question on the amendment, which is whether we should have a referendum or not, well, he did but he addressed himself mainly on the recommendations of the report. I notice that the Honourable Mr Bossano, in opposing the amendment for the Honourable Mr Canepa, in fact re-argued the case for acceptance of the report and, really, Mr Speaker, we are here being asked a question and the question is: Are we, as a House, with no political mandate, no electoral mandate, with the main parties undecided and divided as to whether there should be divorce or not, are we entitled to act as legislators in those circumstances and legislate on an issue that is highly emotive in Gibraltar. I know there are many people who feel passionately on this subject of divorce like my Honourable Friend Mr Lodo and the Honourable Mr Bossano but there are other people who are equally passionate, not in this House but outside this House against divorce as being a disruptive influence on society. There are many people against. I know the Select Committee sat, we have not heard their representations, they saw people, we know all that, Mr Speaker, but one also knows that divorce is a fundamental issue in any democratic society and especially in a society whose majority of inhabitants because of their faith do not agree in principle with divorce and are against it. And it is against that background that this House must consider whether it is entitled to change the divorce laws with no mandate of any kind. That is the issue on this part of the motion. I have said, Mr Speaker, how much I appreciate the work that has been done by the Select Committee, how much I appreciate the careful work that has gone into it, but that I must with the greatest respect to them, disagree with their conclusions. I have given my reasons, and my reasons have been the experience that has occurred in the United Kingdom since 1969 and the figures that have been published and the known facts of how divorce has affected that country and the stability of family life and the stability of marriage in that country. I have given the reasons and I am not going to repeat them now. But what I do say is that 15 individuals are not entitled, Mr Speaker, as individuals, are not entitled because they happen to be in the comfortable position of being elected Members to the House of Assembly and being able to legislate, are not entitled in my view to legislate without a mandate from the people because we all know that divorce is controversial. I don't know if there is a majority in favour or a majority against. The Honourable Mr Canepa has said he suspects there is a majority in favour. The Honourable Mr Bossano has said that if we have a referendum the church will rally their tanks and their guns and their forces and fight it, or their decisions. I would have thought that the Honourable Mr Bossano would have said: "Let us go and

have a referendum because it is obvious the majority of people are in favour. I know, I live on the ground, I have constant contact with people". And I would have expected the Honourable Mr Canepa to have said: "Let us have a referendum because I think the majority of people in Gibraltar are against divorce." But it is the other way round. The Honourable Mr Bossano says one thing, the Honourable Mr Canepa says another. We do not know, Mr Speaker, how people feel. We do not know how people feel, not about the unfortunate few who have these terrible problems in the family and in their marriage and we just try and help in one way or another, but we do not know how people feel, generally, as to whether it is good for society to have such a large number of broken marriages made easy or brought about partly by easy divorce which is what has occurred in the United Kingdom. And 40% of marriages in the United Kingdom, of second marriages in the United Kingdom, have broken down, Mr Speaker. That is another factor that came out in this pamphlet of the Conservative lawyers on divorce from which I quoted earlier on. So it is not a question, Mr Speaker, surely, of whether people decide to help a hard case or not in a referendum, the question is that the public may wish to decide whether in order to help a few they are going to put at risk the institution of marriage and the family as a stable unit in society. That is the issue that a referendum will decide. In a catholic country like Italy, they did it by referendum and the majority voted in favour, and in other places divorce as indeed abortion, no one has mentioned that subject here, but divorce and abortion have been the subject of referendum because it is felt that these are issues that affect everybody very personally and they should be put to the people directing their minds to that issue. I agree, Mr Speaker, that this is one of the problems about putting it in an election manifesto, that if you put it in an election manifesto we are for divorce or we are against divorce, and you are elected you do not know really whether you have been elected because of divorce or not unless like the gentleman mentioned, Mr Ellul, unless you just stood as he did in 1976, and he stood on the platform for divorce and got rejected, unless you do it on that basis but life is too full of complications, Mr Speaker, society is too full of complications to have a general election on whether we should have divorce or not and it would be difficult to judge whether a political party that puts divorce in its manifesto gets elected, or does not get elected because of that particular issue. Therefore it seems to me that if we know that divorce is controversial and that seems to be the general opinion judging from how different Members of the House here think then it seems to me that a referendum is a way of finding out whether the electorate, having elected us all on different manifestos, whether the electorate approves of what our Select Committee has said which is that there should be easy divorce. Well, they have not said that, they have said they do not want easy divorce but in effect amounts to easier divorce, perhaps,

might be a fairer way of putting it. Mr Speaker, I have no quarrel with this amendment, I would go along with it but, obviously, I am suspect in this because I have already made an address to the House on the report saying that I cannot agree with it and with its conclusion. But I do think, certainly it would be helpful to people like me, to know whether what I feel on the report is in fact shared by the population at large. We have to legislate in accordance with mandates given to us. We have no mandate to effect or to change a law that is fundamental in a society. We have no mandate, no party has sought a mandate, no party has been given a mandate. The suggestion being put now is that we should ask the people in a referendum whether they approve the recommendations of the single ground for divorce. I know, Mr Speaker, that brings problems and explanations and so forth but are people able to take a view? I would have thought they could and I would have thought that having got to the stage where this House is really divided on this issue it may be appropriate that the electorate should be given a chance to decide or to recommend to this House what should be done. As you know, Mr Speaker, there is a free vote here, no one is bound to do anything here, it is free on my side of the House to vote on this issue as people in their conscience feel right, as indeed in the main motion. As far as I am concerned, personally, I think the reform that is suggested is of such a dimension and could have such far reaching consequences on our society as it exists today that I believe that that society should have an opportunity to decide whether they feel that that reform is necessary or desirable for Gibraltar.

HON H J ZAMMITT:

Mr Speaker, Sir, when the Honourable Mr Bossano brought this motion to the House in 1980, I think most Members agreed that the laws of divorce in Gibraltar fell short of the desired requirement but, equally, in the same breath we were all saying that whilst agreeing with the required up-dating of the legislation we really had no mandate to bring it up at that particular time, and let us not forget that it was very shortly after a general election where none of us had the courage of including this in our own manifestos. I would tend to disagree, Mr Speaker, with the Honourable and Learned Leader of the Opposition inasmuch that in the 1976 elections Mr Ellul was not elected because of his views on the divorce reform. I think it may have contributed but I think there were other strong reasons why he was not elected to this House. I think, in the main, Members did realise that our laws on divorce left a lot to be desired and we agreed, and I think Hansard can prove this, to have a Select Committee to look into the situation. However, I must reiterate in the same breath we all advised caution as none of us in this House has a mandate either as a party or as individuals to bring in the reform. Now Mr Speaker, when I spoke in the

original motion way back in 1980, I think I gave a reasonably good impression what I was totally in favour of the reform but ended by saying that we had no mandate and therefore I could not support the motion. I find myself different to a number of Members here and particularly I would like to pick up on what Mr Loddo said, that we must be honest and agree that those supporting the amendment were doing so on strong religious convictions and Mr Bossano himself again has said that those opposing it would be doing so on strong religious convictions. Mr Speaker, quite honestly, I am afraid that does not move me because I am a Catholic, I am not a practising catholic at all and although I believe that there is a requirement for the reform of the divorce law I do not think we have a mandate to do so and I agree for once with the Leader of the Opposition that it is a very difficult and emotive subject, as individuals, to impose upon a people whether they like it or not. One thing that has not been mentioned so far is whether there is a divorce reform bill going through or there isn't, whether we do it for adultery, homosexuality or all other things listed there, it still does not affect the Roman Catholics. Let us be quite clear about that. No matter what we do, the Roman Catholic is committed, that is, the practising Roman Catholic it doesn't matter what legislation we pass, he cannot or he should not get a private member's motion here. Divorce just does not exist, fullstop. So I do not think that the strong religious convictions hold water as regards a referendum and as the Honourable Mr Canepa mentioned earlier on and I agree with him, the majority of people in Gibraltar do want to see a reform of the laws of divorce. With great respect to the Honourable Mr Bossano I feel that the people that they have interviewed are people who are affected in the main and quite pathetic cases which when looked at individually deserve the highest consideration and I am four square behind them.

HON H J BOSSANO:

If the Honourable Member were to look at the evidence. He has mentioned that he is aware of those people who came to present their personal problem and why they were saying the law needed to be changed to meet their personal problems. But what he is saying does not happen or will not happen because, in fact, whatever we legislate does not apply to the strong catholic, well, if he looks at the evidence of those who spoke against, they are all, exclusively, without exception in that group that he has mentioned.

HON H J ZAMMITT:

Yes, Mr Speaker, I agree but what I am saying to the Honourable Member is that if the person who did not come and make representations and as I say, I uphold as I did way back in 1980, I uphold the fact that our laws require reform but I cannot and I do not think that I have the authority, and least of all the

mandate, before I can have the authority I must have the mandate, to be able to pour down people's throats or uphold whatever they may or may not want.

HON J BOSSANO:

Mr Speaker, if the Honourable Member will give way. Will he answer this point. Is he saying then that if we have the referendum tomorrow and the 20 people who have come to the Select Committee go and vote in favour of the reform, because they have made a kick in favour, and the 2,000 who have written against it who are not going to be affected, according to his definition, because irrespective of the laws we passed their religious convictions are so strong that they will not make use of it, those 2,000 vote against, then there is clearly an overwhelming mandate not to do what the Select Committee recommends and the other 8,000 don't vote. He thinks that when the House is faced with that decision what do we tell the 20, what does he tell the 20.

HON H J ZAMMITT:

What I am saying, Mr Speaker, is that none of us, and let us be quite honest, none of us had the courage to say this at any election, none of us, and it was shortly after the election that we were in the privileged position of being here, in the privileged position that the Honourable Mr Bossano can now come along with a Private Member's Bill, that this can be done and I think it is not on. I think we should test the people in general. I honestly support strongly and feel that there is a great requirement but let us not kid ourselves, and I repeat and I hope I am not being boring. Irrespective of what we do, whether it is irretreivable breakdown, whether it is homosexuality or any of the other offences, it still will not affect a Roman Catholic. Mr Speaker, I think I said exactly the same thing way back in 1980 and then, of course, let me assure the Honourable Member that I was not aware that my colleague Mr Canepa was bringing an amendment. I was not aware of that and I still say the same thing today. I think, quite honestly, that we should be very careful about this and whilst sympathising greatly and reiterating my desire and fervent hope that our reform should take place at the earliest possible convenience, I think we owe it to the people of Gibraltar as a whole that they should have a say in what they want on this very personal issue which affects individuals, family households and the family composition of which Gibraltar has existed on for so many years.

HON A J HAYNES:

Mr Speaker, on the amendment. I would like to say that it seems to me that in part the purpose of the amendment has been forgotten by some of the speakers and as I understand it and as

I understood the Minister for Economic Development who I feel put the case for his amendment very distinctly, the reason for having a referendum which is the basis of the amendment, is that there is no clear majority in favour or against divorce in this House, that there is no political mandate in favour or against divorce in this House, that there is no pressing need to bring the matter now. There was no more need in 1980 to have the matter debated than there was in 1979, and that as such it would be unsafe for us to decide it now. In that respect, it seems to me a very noble suggestion to make sure that the matter is safe, that we do not pass legislation which is unwanted, that we should if as is the case where one of our Members had insisted that the matter be brought before us and in the life of this House, there is therefore a need to have his suggestion or what is now the suggestion of the Committee, decided on by the people as a whole. I find that that case has not been answered, instead the Honourable Member, Mr Bossano, has said no to the suggestion of a referendum, he has given as one of his reasons that people vote with their stomachs, well, I shall be the first to remind the electorate of that at the time of the next general elections that that is the view of the trade union leader, that people vote with their stomachs. Yet he retains to himself the privilege of voting with his conscience. I think there is no evidence which the Committee have seen which would support the contention that people vote with their stomachs and as such one must consider what is the motivation behind that. Is that statement motivated simply because he fears that he might lose in the event of a referendum? I think, again that was not within the scope of reference for the Select Committee. They were never asked by this House to sound out the opinion polls in the event of a referendum, but nevertheless they have gratuitously given us their views on the matter and they have thought that their own recommendations, their own wisdom will be cast as pearls before swine, they will be ignored. Well, that is I think a risk which they must run. Similarly, Mr Speaker, another argument which I think is as fallacious as the first, proposed by the Honourable Member for rejecting the call for a referendum is: "Mr Speaker, here we have 3 year's work, 3 year's work down the drain. It can't do." Well, thank heavens the British Government didn't take that view of the Foreign Affairs Committee, Mr Speaker. The weight of the report in volume and in the amount of hours that went into it, are not, per se, grounds for accepting and approving in toto. And, again, I would examine the claim that it is three year's work. That is incorrect, Mr Speaker, it has taken 3 years to produce but it is not 3 year's work and I would remind the Honourable Member that they met on 8 occasions to hear oral submissions, a week's work, and possibly another 8 meetings to consider the matter. And again, Mr Speaker, we had an even more absurd argument to the effect that a referendum could not be staged properly unless they could print 10,000 copies of the Report. If that had been the case, Mr Speaker,

when the British Government considered the propriety of having a referendum on the Common Market issue, they would have printed 20,000,000 copies of the EEC Regulations, the Treaty of Rome and all the other ancillary treaties. It was not considered necessary, Mr Speaker. I am not sure that everybody will want to read the report. I think that the public can be generally taken to understand the meaning of a question which is the question which the amendment proposes to put to the people and that is the decision to be taken by the Gibraltar people at large that the single ground for divorce should be that a marriage has broken down irretrievably. I do not think that it is necessary to give them the entire report. They will, I am sure, be lobbied, if that is the correct word, by those Members of this House who favour the recommendations contained in the report and indeed by other people who also would agree with the recommendations. In the circumstances, Mr Speaker, I would submit that there has not been any reasoned argument to refute the proposition that the motion be amended. I notice that those other Members who would appear to be in favour of the recommendations are not addressing themselves on this subject and in the circumstances where there is no evidence to deny the people of Gibraltar an opportunity to have a referendum on this subject, and in the circumstances where the Minister for Economic Development has outlined the need, I myself, Mr Speaker, will vote in favour of the amendment.

HON M K FEATHERSTONE:

Mr Speaker, in a few week's time, 15 Members of this House will be meeting to vote on something which is, I think, fundamental to the future of everybody in Gibraltar and that will be whether we accept the idea of commercialisation of the dockyard or not. And yet we have no mandate on this question from the electorate and we are not going to ask for a referendum on it. I know referenda are the privilege of certain countries, I think in Switzerland they have one almost every other Sunday but in Britain it is one of the less common aspects of political life, I think they have only had one referendum in their history, at least over the last 150 years. And I am sure when they altered the Divorce Bill in 1969, they neither had an electoral mandate nor did they ever consider a referendum. Should we have a referendum here? The report has been public knowledge for at least 3 or 4 weeks and we have had no outcry from the public either for or against the report. We have no mandate from the general public for a referendum. It would seem to me that, as in many other things, either the general electorate is apathetic or they consider they have sufficient confidence in the 15 people here who are their elected representatives. When the Select Committee was first set up it was adequately advertised that anybody who wished to make any representations could do so and we had a number of representations, some of them, admittedly, subjective, people who were specifically coming to the Committee to

present their own problems. But we had quite a number of objective representations and of those objective ones the majority, I would hasten to say, were in favour that some change in the divorce laws should be made at the earliest opportunity. The Committee took every facet into consideration, not least, as The Honourable Mr Bossano has said, that we were bombarded to some extent with what he has put, and what I agree with, a manufacturered letter, it was so manufacturered that they all had the same grammatical mistakes. So much so that I think, reasonably rightly, the Committee felt that not too much credence should be given to them. There is also a public attitude in Gibraltar with regard to a common letter in which if somebody puts a letter in front of you and asks you to sign quite glibly you do sign and we have found that it is not a very difficult thing in Gibraltar to get 50 or 100 signatures on a piece of paper and half the people do not really know what they are signing. Speaking on the report as such I would like to clarify two points. The first point I think is that until one knows some of the circumstances of the hard cases, and they are very hard indeed, it is difficult to make a full and proper judgement of the whole issue. And the second point which we have mentioned in the report and which I would like to emphasise is that in many instances people rush into marriages not knowing the full consequences of what they are undertaking. We have suggested in the report that there should be considerably more marriage counselling before marriage and we have also suggested that the age at which a person should be allowed to get married should be raised. Too many times in Gibraltar people are getting married without proper preparation, possibly with a shotgun behind one of the two partners, and the result is that that is doomed to failure from the beginning. I fully agree with the Honourable Mr Loddo that the trauma that the children of an unhappy marriage go through seeing their parents fighting each other at every opportunity, seeing perhaps the mother being beaten up by the husband and the child also being beaten up, is a far worse trauma than if the parents should separate. I am willing and I support that divorce should be made, I will not say easier, but should be made more obtainable in the case where the marriage has irretrievably broken down. This does not mean automatically, and in this I do not agree with my friend Mr Bossano, that they can marry again, that is up to their conscience. If they are married in the catholic church and they are true catholics they will not wish to marry again but at least they will not be chained to a partner with whom they cannot live, with whom there is no reasonable prospects of any decent life whatsoever. To come back to the referendum issue, Sir, I feel that we have got to take the responsibility that is put on us when we are elected. There are many issues that come up during the life of a House on which one has to vote basically at all times in accordance with one's conscience because even if one is in Government and one presents the Government view,

the Government has discussed the matter behind closed doors admittedly beforehand but in those discussions Members must obviously use their conscience in how they react. We have many issues which come forward which we have to debate, which we have to vote on without going back to the electorate at every opportunity. I think that this is one of the duties that we must undertake when we stand for election and if elected we must carry out. I regret that I cannot support a referendum.

HON CHIEF MINISTER:

Mr Speaker, I would like to talk about the constitutional proprieties of the amendment in respect of the procedure of this House and other aspects of the constitutional results. I think the Honourable Mr Loddo, if I may say so, made a very good, sensible, simple speech, which made many of the points I had noted and therefore I do not propose to repeat them. But what I think is a complete waste of time is that we had a huge debate, I was just looking through it, I had almost made myself a promise never to read a Hansard, that is why I have never asked for copies of Hansard for quotations, I have got enough with the one that is being prepared now. I wanted to remind myself of what has happened and I see that except for one Member who had it in his mind, the rest of us all voted in favour of the appointment of a Select Committee to look into the matter as a way out after a huge debate on matters which had been discussed ad nauseam. The only Member and I would like to pay tribute to him was the Honourable and Gallant Major Peliza, who spoke about the referendum at the time. The rest were happy to go along with the appointment of a Select Committee. To appoint a Select Committee, to get the Select Committee to go into the matter, to ask people to come and give evidence, to prepare a report, and the Select Committee was appointed with the unanimity of the House. The only Member who was not here, unfortunately he was not well, it was very recently after his accident, was the Honourable Mr Abecasis. All of us voted in favour of the appointment of the Select Committee. That was the time when we should have said: "No, it is a referendum and have gone to the referendum and by this time we would have had the results. But after three years of work to come now, after the report has been made, after there has been the singular achievement of having a unanimous Select Committee, where the people were selected precisely because they had different views and where the realities of the situation have made all the Members agree on a recommendation, seems to me a farce and a waste of time of this House to appoint Select Committees and then to say that the Select Committee's report should be put to a referendum. On that principle alone I would oppose a referendum and I would oppose any referendum that was suggested after a Select Committee has gone into the matter. Maybe it is a simple way out now but that should have

been thought then and I say the only person that I find, looking through, not reading, I promise not reading, the Hansard, is the Honourable Major Peliza who said that we should have a Select Committee to decide what should be put in the referendum. That was not what was decided but he said it. In fairness, he was thinking of it then. I do not think that anybody else was applying his mind to the referendum. The other constitutional matter that arises is whether this House has got the power to decide on the acceptance of the report. We are not legislating now to amend the law of Gibraltar. Let it be quite clear. If it is a question of testing public opinion, if it is a question of testing reaction, that will come later when the Bill is published as a Bill, not when we have the report here. The procedure will be as I did with the Landlord and Tenant Ordinance where it will be published, in fact, you could have it published if the report is accepted, immediately, and then have the first reading whenever it is and then have the second reading, and then have a period before the Committee Stage for people to make representations. We are not now legislating to amend the law of divorce, what we are now doing is considering the report of five Members of the House selected on the basis of differing views, who have been able to present a unanimous view, who have seen the thing, they were not delegates, of course they were not delegates, they have to report back. Somebody said: "Oh, you are going to change the law of Landlord and Tenants the way it is in the report because that is what you put the people there for". I said: "No, they were put there to report and there may be things that I agree with and things I don't agree with, in detail". The motion appointing the Select Committee read: "That this House considers that a Select Committee of this House should be appointed to enquire as to the need if any, to amend the Matrimonial Causes Ordinance". If the Select Committee had been divided on their Report, it would have been difficult but, when people who were divided in the original debate, divided as to what should be done, agree to form part of a Select Committee and work hard at it, and call for evidence and look at representations and so on, and at the end of three years, it could have been two but, anyhow, it took three, to come here and say that now we must have a referendum, is an absolute waste of the procedure of this House and a waste of time for everybody concerned and I think it is not meet for the House to deal with the matter in that way. I am not making any comment on the details of the legislation. I have spoken on the general report by welcoming it, I have not even expressed a view in various matters of this particular Bill, I want to look at it myself, I want to look at the Bill. All I said was that I would hope that when the Bill was published we would have the relevant sections of the English Act in order that we would be able to see the relevance in the English Act and the effect that it will have. We are not here voting for a change in the law of divorce, we

are voting on the basis of whether we accept or we do not accept the recommendations of five true and good men who have been working for a long time, hearing a lot of people, looking at the matter at very close quarters, having been appointed to do that, and then to say, now we go to the referendum. I think the procedure is wrong, I think occasionally it is good that these things are aired on a non-party basis to show that people, even of the same party, can think differently in this matter. That, I think, is also good because it shows that when they are together it is because they really feel that they are together and not for political convenience. There will be no lack of consultation. There have been consultations and there will be plenty of consultations and the same as in any other Bill of importance which is published and on which representations are made, the same will happen with this. The other point that worries me from the point of view of the procedure of the House and so on is the question of whether this House should deal with a matter which does not appear in the manifesto. A lot of people say that in England elections are won and lost and very few of the people who read the manifestos of the parties. What they read, perhaps, is the newspapers. I understand that this year's Labour Party manifesto is almost as big as a bible, a huge manifesto. I am sure that voters will not go through that except those party workers and people concerned. They will make their own judgement. Therefore, I think that if the Members, in pursuance of their conscience, are prepared, as the Honourable Mr Loddo said, are prepared when the time comes and the challenge comes to take a decision, the fact that the matter that is being decided here was not in the manifesto is an act of conscience and an act of courage. We have only had one referendum and there has only been one referendum in England, whether they would go into the Common Market. We only had one and that is whether we would go it with Britain or go it with Spain. If the future constitution is that matters should be dealt with by referendum, let us look at the Constitution and let us decide the parameters upon which we would go to a referendum. But to get out of this by means of a referendum I think it does not accord with either the practice of parliament in the United Kingdom which we are proud to follow, nor was there any referendum in England, I was just looking through the Hansard and I see that every point that has been made here was then made but more so. I went all through the Herbert Act, and all the farce of the adultery cases and all the chambermaids going into rooms and providing the necessary evidence in order to get a divorce, and the point made by all Members that we are not considering in a referendum whether there should be divorce or not, that would be a point for a referendum but the divorce law in Gibraltar by sheer fluke was introduced by a Supreme Court Order of 1883 which applied all the law in England, as at that time, which included the 1867 Matrimonial Causes Act, which provided that you could obtain divorce if you were a

man by proving the adultery of the wife but if you were a woman you had to prove the cruelty and the cruelty of the husband. That was equalled sometime anonymously in the 60's and the adultery had to be equal, there was no difference about the additional burden put upon the wife against the husband. That is how the law of divorce in Gibraltar and nobody has taken any steps to my knowledge to abolish that law. Everybody has accepted that as part of the constitution... of Gibraltar, as part of the set-up of the legal system of Gibraltar. It is also pertinent to point out that under the change that was done on the basis of the jurisdiction of the courts to grant divorces according to domicile, that one year's residence in the United Kingdom provides you with the right to divorce if you satisfy any of the conditions set out in the laws in England, and that there have been many people who have not been able to either establish or there has been no act of adultery, who have gone to England, taken a job, worked for a year, applied for a divorce, got the divorce and come here. That, of course, may be open to many people and it may not be open to some. As I say, I think there will be ample time if the report is accepted, to publish a Bill to give time for the people to make representations on the particular circumstances and it may well be that there may be amendments that will alter it one way or another. What we are doing here today is considering a report which at least I know has convinced one Member of the Select Committee who probably entered the deliberations with a different view, and to me that is the greatest credit of the work of the House in Select Committees. I will oppose the amendment to the motion.

MR SPEAKER:

Before I recess the House I would like to say that the Honourable and Gallant Major Peliza has given notice that he would like to raise on the adjournment the question of the enfranchisement of Gibraltarians for the European Parliament. Enfranchisement of Gibraltarians for the European Parliament. We will now recess until 9 o'clock in the morning.

The House recessed at 7.20 p.m.

WEDNESDAY THE 25TH MAY, 1983

The House resumed at 9.15 a.m.

MR SPEAKER:

I will remind the House that we are still on the debate on the Report of the Select Committee on the Matrimonial Causes Ordinance, on the amendment, as a matter of fact.

HON MAJOR R J PELIZA:

Sir, as the eternal optimist that I am, I came this morning determined to try and convince not only Members of the Government, but also some Members of my own party and other Members of the Opposition. Unfortunately, Mr Speaker, at this unearthly hour of quarter past nine, it seems that some of the Members are incapable perhaps of getting up at that hour and so I am afraid that some of my colleagues will not be here for me to try and convince them about the referendum.

MR SPEAKER:

If you hurry up you might get it through.

HON MAJOR R J PELIZA:

Yes, it is quite true, if we can count him we can all sit down and vote. Sir, I have made a rough calculation and I think we would be the losers if we did it now. I will see if I can attempt to try and get round it by using logic and common sense, Mr Speaker, I go entirely with the amendment of the Honourable Minister for Economic Development and Trade, Mr Canepa, who I can see that in this instance is speaking personally rather than as a Member of the Government and equally the Chief Minister I think is speaking not as Leader of the AACR, not as Chief Minister, but as Sir Joshua Hassan. This poses a question. Why is it that on this particular subject as against any that we have discussed in this House so far, Members of the Government and Members of the Opposition should be speaking on their own personal behalf and not on behalf of their party, on behalf of the Government, or on behalf of the Opposition. That poses a serious question. Why? Why this extraordinary attitude for this particular subject? The answer must be, Mr Speaker, that this is an extraordinary subject, an extraordinary issue, which affects the personal beliefs and conceptions of individuals both as politicians and as ordinary members of the public and of the community. And because of that, in my view, Mr Speaker, it has got to have a special treatment. Sir Joshua Hassan started by saying that the only person who had mentioned a referendum in this House at the beginning had been myself. Well, that is not so.

HON CHIEF MINISTER:

If the Honourable Member will give way. I have subsequently discovered that the options were considered by my Honourable Friend but from what I could see from a quick look at the Hansard, the Honourable and Gallant Member was the only one who devoted more time to the question of the referendum and was more inclined to a referendum than the other two, I am sorry, I stand corrected, Sir.

HON MAJOR R J PELIZA:

I think the first lesson that we learn from that, Mr Speaker, is that we should have an index of the Hansard as quickly as possible as I have said in this House many a time and then the Chief Minister would not have to stand up now and correct himself.

MR SPEAKER:

You convince the powers that be, that we should be given more staff and you will get your index.

HON MAJOR R J PELIZA:

I agree, Mr Speaker, it is a total waste of money to start printing Hansards and not have an index. I do hope that the Chief Minister who gave an undertaking to do this now that he has seen in practice how important it is, that he will put his mind to it and do it as quickly as possible. That is one point. Mr Speaker, I would like to refer, too, to Mr Restano who went further than that and he mentioned the question of the referendum, he said: "My amendment was that there should be a referendum because it is up to the people to take a decision but that a Select Committee be appointed to decide upon the wording and the way in which the referendum would be put to the people of Gibraltar". That is the Hansard, Mr Speaker, of the 17th July, page 81.

HON J BOSSANO:

Mr Speaker, those were not the terms of reference given to the Select Committee and I would not have served on that Select Committee on that basis. I made it clear at the time so if the Honourable Member wants to quote, let him quote everything.

HON MAJOR R J PELIZA:

Mr Speaker, Mr Bossano may have made it clear, but in fact, the Select Committee considered the referendum because if you notice, the Honourable Member referred to it, in fact, they looked into the referendum and they thought that that was not a good idea and they explained the reasons why they thought it was not a good idea. Reasons with which I certainly don't agree and to which I will refer. And, of course, when he sat in the Committee he must have realised

HON J BOSSANO:

What the Honourable Member has just quoted before I interrupted him was, in fact, a statement saying that a Select Committee should be set up to decide on the terms of a referendum. A

Select Committee was not set up to decide on a referendum. As part of the deliberations of the Select Committee, we considered whether a referendum was the appropriate way to decide this and we considered on the basis of the evidence that it was not. That is not the same thing as saying we are setting up a Select Committee in order to come back to the House with what should be put to a referendum. If that had been the decision of this House, I would have voted against the setting up of the Select Committee for that purpose and I would have refused to serve on it. That is what I am saying.

HON MAJOR R J PELIZA:

I do not quarrel with that, Mr Speaker, that was his view but the fact remains that the Committee considered the question of a referendum.

MR SPEAKER:

In fairness to the Honourable Mr Bossano, what Mr Bossano is saying is that there is a difference between you stating that there should be a referendum for the purpose of deciding the terms of the referendum and that there should be a referendum as to whether there should be divorce or not.

HON MAJOR R J PELIZA:

I totally agree. All I was saying was that the question of a referendum was mentioned in that previous meeting. It is not something that has come out of the blue suddenly. It was a matter that was given thorough discussion here, in the House, at the time, and this is in the Hansard, and that in fact it was then taken to the Committee and in fact it is the penultimate paragraph, which is paragraph 79 and 80 of the Report which dedicates itself to the question of a referendum. I agree entirely that the Committee was not set up to find out what terms had to be put to the people, there is no doubt about that. So, Mr Speaker, we have then a position here of the Committee which says that there should be no referendum, and I congratulate the Committee on the excellent exposition of their views on the question of the reform of the divorce law in Gibraltar. I congratulate them. Let me say, and I am not hiding behind any political skirt, I believe in divorce, personally, in the reformation of divorce. What I am arguing is whether, in the particular circumstances of Gibraltar it is the right thing to make the decision in this House or whether the right and proper thing is to put it to the people themselves to make the final decision. The Honourable Mr Bossano and also the Chief Minister gave the impression that whatever a Select Committee says has got to be accepted by this House. I do not believe that that is the purpose of a Select Committee.

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MR SPEAKER:

No, with respect, the Honourable and Learned Chief Minister said that the fact that the Select Committee had reported didn't bind the House and that the House had to take its own decision.

HON A J CANEPA:

Mr Speaker, he went on to say, and I have got a note, he went on to say that it would be a waste of time after the Committee has been deliberating on the matter for three years not to accept those recommendations.

HON MAJOR R J PELIZA:

Yes, so he was saying, more or less, that we are here to rubber stamp a Select Committee. But that is not the purpose of a Select Committee. I think the purpose of the Select Committee is to look into any question, to try and find out all the information they can, to present those facts in a logical sequence, and if they are asked to, to come to some conclusion. Then it is up to the House, having gathered that information, having got the report, to make an assessment and decide whether they agree entirely with the Committee or whether it should be amended and put it to the House.

HON J BOSSANO:

This is precisely what he is refusing to do, to make an assessment of the recommendations of the Committee. I agree with him entirely. This House does not have to rubber stamp the recommendations of the Committee but the Committee is coming back with a report and this House is saying that this is a matter which is too controversial for us. That report, those recommendations, what you have established after 3 years, have to be put to the people, not to the House of Assembly. We are not saying we want this House to rubber stamp the recommendations. Having got the report of the Select Committee, we are saying this House then has got the right to either accept or reject the recommendations as to the need for changing the law and how the law should be changed as it can do with the Landlord and Tenant Ordinance. But if the Honourable Member is saying that that is the same thing as saying instead of taking a decision here, let the people take a decision, right, let us have a referendum on the Landlord and Tenants Ordinance and a referendum on every decision of every Select Committee.

HON MAJOR R J PELIZA:

Well that is not what I am saying, Mr Speaker, I am not saying that at all. Obviously the Member is putting words in my mouth which are not mine. No, Mr Speaker, I am saying that

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this is a report from the Select Committee, it makes recommendations. One of them is that we should not have a referendum. One which this House may decide after considering all the aspects that we should have a referendum. How we should go about it is a different matter, but I will come to that, Mr Speaker. Almost every speaker who has stood up here has spoken with great feeling. Why? Why so emotional about this matter? Why is this so? It is not a question like putting up a tax or considering a development plan, it is something that goes to the root of our society and the social consequences can be very serious. Whether we like it or not, our culture in Gibraltar has developed from our religion as well and this is why the history of religion hasn't got to be seen as to what the Pope says or what the Bishop says but what is very deep in people's minds and souls and this is why some people who are not practising catholics, may still instinctively, be against divorce or against the reformation of divorce that we are suggesting because it is part of our culture and there is fear, I think, there is fear that if this erosion sets in the whole fabric of our society is going to change and is going to lead to other things like abortion, euthanasia and all those things. I know that the Member doesn't believe so but this is the fact. If you look around, in all these committees where this has started with divorce it has not finished there. Nor do I believe it is going to finish here because we heard Sir Joshua Hassan say yesterday that it was easy to get divorce if you went to England and worked there for a year and therefore why should we not have it here.

HON CHIEF MINISTER:

Sorry, I did not say why should we not have it here. What I said was that we were not deciding on something so vital that could not be obtained by people who had means to do so elsewhere.

HON MAJOR R J PELIZA:

The fact is that if you want to get it all you have to do is go to England, work for a year, or stay there for a year, and you get it in the United Kingdom. If you come to abortion you can do the same thing, go to England and have it. So therefore the question comes up, why cannot we have abortion in Gibraltar? This is in my view, a natural sequence of events and this is why I say that there are a lot of people in Gibraltar who are worried of the erosion that can slip in. Because of that and because we do not have a mandate because it was not an issue that any party in Gibraltar thought of putting up a mandate before the elections because it was obviously going to be mixed up with other issues which would in fact cloud the other issues and therefore no politicians dared to put it out publicly, that is a fact, and it is no good ignoring that. And, now, as it were, through the back

door, we are going to slip in a big change to our society because of the consequences that I think we are not justified or entitled to do as true democrats. Therefore, Mr Speaker, I believe that the proper thing to do is to get the report which is quite clear and simple and put it to the people that they have got to decide whether they would like to reform the divorce laws in Gibraltar along the lines proposed by the report. Then it is up to all the politicians and other people who want to participate in the great debate to go and put it to the people. Some of us will suggest that they should vote in favour, I would do that, some would say you should not vote in favour, for whatever reason. To me, that is the proper approach to this subject. At present the people, are not well informed. Let us be frank about it. I think that most people are acting on instinct, on passion, on emotion, but no one really has got down and given careful thought and said: "What is the right thing to do?" We heard my Honourable Friend quoting from the Conservative lawyers, who suggest that somehow there should be a reform to somehow control divorce a bit more than it is today. He does not know what the Labour lawyers have said, maybe they have an opposite view. This will give us, I think, and the public in Gibraltar, generally, and those who are particularly interested, time to search for more information and to bring it out in the public debate that would ensue. Then, Mr Speaker, the public would in a dispassionate way, be in a position to make a calculated decision on this, I think, very important issue. No one, I think, in this House doubts that this is a very important issue. I know that there must be people suffering because of this. I agree entirely that in many instances it is better to have divorce. I believe different statistics to the ones of my Honourable Friend, that 50% of people who remarry after divorce lead a very happy life. That is a fact. I also believe that there are lots of children who love their stepfather perhaps more than their own father because of what has happened in the home before that. There are lots of arguments for reformation of our laws, I have no doubts about it. There are lots of arguments in favour of reformation. But however much I personally believe, I think this is so much an intimate subject for every individual that it is most unfair, in my view, for us to take a decision in this House, without even having publicly explained the situation. How many people know about this report? How many? None, in my view. There has been no publicity. And even before there had been any publicity we are thinking of trying to get it through. I think that at least, we should allow for more reaction to come out after the Report of the Select Committee has been made public. That will give time for more thought and perhaps the public generally, and I hope they do, will demand a referendum on this. If I cannot appeal to the Members of this House, I think I personally will appeal to the people of Gibraltar to ask from their legislators to have a referendum on this subject because it is a very, very important issue. I know

that there are a number of people suffering and I will come back to that again but what we have got to be careful is that by trying to cure a number of cases, we create even more cases so that the cure is going to be worse than the disease almost spreading it, as it were, this is the danger, and we have a very serious decision to make. They said it is easy to go to England, stay a year and you get it but it seems that people here do not do it. They stay here, they rather go the way they are than do it that way, and that, in my view, is something to be commended because it shows the moral strength of those people, it shows that they themselves realise that there is something behind it. I would like to point out the question particularly of the women who are perhaps the ones that carry the burden most, because when a man divorces I think it is quite easy for him to run around, it is usually the mother who has to look after the children and this is where the main burden falls in marriages, mainly. I know you say you hear one party and you hear the other and then in the middle you have the truth and I agree, six of one and half a dozen of the other. But the fact remains that before there was, as you might say, progress and women became emancipated, the process definitely was that the woman was carrying the burden all the time and the man was having a good time and I agree that even today there is hypocrisy behind all this. I accept that and this is why it is so important that we should make an attempt to find a way out of this difficult situation. I think we should make an attempt to cure those cases but not remove the deterrent which first of all makes the individual think very carefully before he commits himself to marriage. This is very important, not to rush into it not knowing what it is. If it is easy to come out once you get in, I think that you will find people are more likely to rush into it because they do not really give consideration to the commitment that they are undertaking, of the social commitment that they are undertaking, particularly if they have a family and of the duty that they have to those children. Those are very important duties that an individual should give careful thought to before he enters marriage and this I think I would like to see very reinforced in whatever legislation we pass, so that whoever goes into this contract of marriage carries with him a commitment to the family that he creates and other considerations must be secondary because they have brought into the world new beings for which they are responsible and in that respect I personally would like to see whatever legislation we have re-enforced. Equally, the deterrent is there, too, to stop people rushing out of the commitment which is very easy. Most of us here except, perhaps, one, are married men and we all know that in married life, there are occasions when there are rows inside the family which if one did not realise what the importance of marriage is, you might suddenly go off the deep end and do something stupid. But if you know, because this is almost ingrained in you by then, that your commitment is total and for your whole life, then, Mr Speaker, the attempt for reconciliation is much greater and I believe that

when tempers cool down and things blow over, perhaps the love that comes back again is greater than before in some instances. In other instances I know it is irreparable and I agree entirely. Mr Speaker, I don't know whether I have convinced anybody, but I think that the duty of the Members of this House and in this instance is first to express an opinion on what they think about divorce having read the report, whether they agree or disagree. There might be some people who even at this stage may be saying: "I have not made up my mind at this stage, I cannot make up my mind, it is such an intricate subject, so complex that I still cannot make up my mind," and we may find some people abstaining. If Members of this House at this stage have been unable to make up their minds, you can imagine how many people out of this House, members of the community, at this stage have not made up their minds and how important it is that information should be supplied to them both by those who are in favour and by those who are against so that they are in a position to make an intelligent decision and this is what I am appealing to this House on this very important subject. I am appealing to this House that they should give an opportunity to the public of Gibraltar to make the decision. We are not going to be the only people who have done that. Most States which are Latin, which are very much the same as ourselves, whose culture has been dominated by the Roman Catholic Religion, have had to do the same. In Spain, in Italy, in these places you have seen that this has been put to a referendum and I think concluded happily in a way that was acceptable to all parties in the end because that was the decision of the majority of the people. I suggest that we should do the same thing here. My personal view is, like Mr Canepa's, that the people would vote in favour of reform, I think they would. Therefore those who want reform I do not believe should be so fearful that the cases which they have seen at very close quarters by the reports given to them by individuals in the Select Committee, I do not think they need fear that they are going to be put off by this. Mr Speaker, I think that those of us who want a referendum would be satisfied that we have gone about it the right way. Those who do not want a referendum and would like to see the law through I think they would be satisfied, too, because I am sure that this would be carried through. But above all that I think we would have in our conscience for evermore, as politicians, that we have done the right and proper thing on this issue, to consult every member of our community and that the decision once taken would be that of the majority of the people of Gibraltar.

HON J B PEREZ:

Mr Speaker, let me say, first of all, that I am not convinced by the arguments which have been put forward by both my Honourable Colleague Mr Canepa and by other Members of this House who have spoken in favour of the referendum. I think the main point that one has to consider at this particular moment in time is really contained in the motion which has

been put to this House by the Honourable the Attorney-General and that is, do Members of this House accept the recommendations contained in the report or not? That is the matter which I think has to be decided at this moment in time. The main argument which has been put by Members in support of the referendum appears to me to be that they accept the recommendations contained in the report, they accept there is a need to reform our legislation but at the end of the day they are saying: "Well, this House has no mandate to carry this through". But again I would reiterate that at this moment in time all we are asking the House to do is to approve these recommendations and to accept that the present laws are archaic and are unjust, that is what we are asking the House to approve. I think I must give credit to only one Member of this House and that is the Honourable Leader of the Opposition because at least he has stood up and said that he is not in favour of the recommendations contained in the report and I think that as far as I am concerned he is the only person who I give credit to because he is fully justified in voting against this motion and since he intends to vote against the motion because he does not agree with the recommendations, then he is entitled to at least go in favour of a referendum because as far as he is concerned the matter does not continue, the matter is stopped. I can only give credit to the Honourable Member Mr Isola. I personally disagree entirely with the arguments put forward that this House of Assembly has no mandate and I disagree entirely because I honestly and genuinely believe that the Members of this House who are arguing in favour of a referendum are only looking for an excuse so as not to face the reality of the situation.

HON MAJOR R J PELIZA:

Will the Honourable Member give way. If that is so why is it that there is no whip in any party, either in the Government or in the Opposition. Why is this if they have a mandate?

HON J B PEREZ:

As I see it, the reason why there is no whip and the reason there is no party view is because in the past politicians as individuals have been scared and frightened of this particular issue. And not only individuals but the parties as such, have been frightened and they have never really tackled it. That is, in my opinion, why there is no party view. I think Mr Speaker, the Members in favour of a referendum tend to put wool over their eyes and they are just coming up with an excuse because they are fully aware that our divorce laws are inequitable, they are unjust, they are archaic and we have all agreed, even the Honourable Mr Canepa has agreed that there is a need for reform. We all agree.

HON A J CANEPA:

If the Honourable Member will give way. An excuse for what? An excuse to kill the whole thing, not to allow it to go through. Is that what he is suggesting that those of us who are in favour of a referendum what to do, what is the excuse for?

HON J B PEREZ:

The issue as I see it, Mr Speaker, is because these Members, including the Honourable Member for Economic Development, just do not want to face the reality of the situation. It is no good saying: "I accept the recommendations contained in the report but we have no mandate". That is my view. I think our matrimonial laws have remained unchanged for many years in our statute books because politicians have been scared. Parties have been frightened to bring it up to the forefront and I feel that this House of Assembly has a duty if we feel that the laws need reform, if we accept the recommendations, then I think there is no question of a mandate being needed. I honestly believe that what the recommendations seek to do is not to compel anybody to do anything, we are not compelling people to get divorced. We are not compelling those who use the legislation to get a divorce to remarry. Nobody is being forced to do anything. All we are doing is giving the right to that small minority of people in Gibraltar today who wish to make use of that particular law. We are dealing with a minority. We are not dealing with the majority of people. The majority of people are happily married, but it is those, that minority, which I feel the whole House of Assembly owes a duty to. If we feel that the laws need reform, if we agree with the recommendations in the report, then it is to that minority, to that small section of that community, to which we have a duty to act. The other point I think I must make is that by these recommendations I do not accept that it is harmful to the community as a whole. I just cannot see that because all that the recommendations intend to achieve is to give, as I would put it, legal recognition of a de facto situation. By that I mean where you have a marriage which has broken down, a marriage which has come to an end, a marriage in which there is absolutely no chance of reconciliation, in practice it is there, all we are doing by this is giving it legal recognition and that is not all. Let us not forget that the church as such are not against judicial separation so what is the difference? The Honourable Mr Isola gave the House some statistical information. He said that in 1969 there were 55,000, I have forgotten whether it was petitions for divorce granted but it does not make any difference, 55,000 in 1969, I think it was petitions, and in 1979, 146,000. The first point was, I think, that it trebled within a period of 10 years. Either petitions or decrees absolute being given. But Mr Isola put that argument, really, not in favour of a referendum but in favour

of his judgement that he does not accept that there is a need to review the legislation and in his view he cannot accept the recommendations contained in the report. Mr Speaker, I reject that argument because it is no good saying that because you have more divorces granted it does not necessarily mean that you have more marriages breaking down. That is complete nonsense, it is absurd. What Mr Isola should have ascertained would have been the decrease in the number of judicial separations in connection with the increase in divorces. Mr Isola also failed to say whether by the divorces being granted whether the number of marriages that have broken down have in fact increased because I would maintain that the number of broken marriages are exactly the same. He tends to point out that as a result of divorces being granted within that ten year period, there must be a very substantial decrease of men and women living together for many years without entering into a contract of marriage. That he fails to say as well and I think that is a very important matter to take into account. Mr Isola also spoke about the number of children involved in these divorce petitions. But, surely, Mr Speaker, if a marriage has broken down, whether there is a divorce petition or not those children are suffering in any case and they are involved. It is no good, as I see it, anyway, to quote statistics against the recommendations. I think the statistics are sheer nonsense. As far as the Church is concerned, I think the Church is fully aware, and the Church recognises the practical situation where a marriage has broken down: But what is the answer, or what has been the answer given to the Select Committee by those members of our community who have come or who have written or made verbal representations to us against reform of our divorce laws. Their arguments have been, well, you have judicial separations, husband and wife can separate, well, what about the children in those cases? Mr Speaker I was saying that the view of the Church and the view that has been taken by members of our community who are against any sort of reform of our matrimonial laws is that the answer to those unfortunate people is a judicial separation and as I say, with a judicial separation children's interests are of course involved. To me what that means is that the Church and those individuals are, in fact, if they accept that marriages break down we are condoning people living together and having children without being married, that is what the Church is doing. I am a practising Roman Catholic but to me that is totally unacceptable because I think it is wrong. I think it is totally wrong. Again, as far as the Church is concerned, even with our laws reformed, they still have the right to decide not to marry a divorcee and nobody will quibble with that, that is their prerogative. But as far as the community as a whole is concerned, I think it is wrong. I think it was the Honourable Mr Loddo who said this. We have to allow people to start life afresh, every person is entitled to do that. Mr Isola also brought up the question of the case in which a husband or a wife who was petitioning would be petitioning on the grounds that he or she did not like the toothpaste that the other partner was

using. That, Mr Speaker, shows that that particular marriage, if any marriage, has totally broken down for one partner to come up to court and give that explanation which in the United Kingdom would be on the grounds of unreasonable behaviour but that is not a recommendation which the Select Committee is making. We have looked at these cases very carefully.

MR SPEAKER:

Mental cruelty, I think, or in this case dental cruelty.

HON J B PERZ:

Yes, but at the end of the day, Mr Speaker, the question that the courts will have to ask is, is there any chance of a reconciliation of this marriage? Has this marriage completely ended or not? That is what the court will have to decide. I think one of the most important factors to consider is, Mr Speaker, that we are not in fact discussing the principle of divorce because divorce exists in Gibraltar today. Perhaps, if divorce was a new concept to be introduced, I would be completely in agreement with a referendum. For example, if we were dealing with a new concept, something like abortion, I would have no hesitation to agree to a referendum. But not with divorce because divorce exists. The unfortunate thing is and this is where I think the House of Assembly does not require a mandate to accept the recommendations in this report, is that divorce only exists on the grounds of adultery, sodomy and bestiality, the unnatural offences. As I see it, one act, a single act of indiscretion by a husband or a wife entitles the other party to a divorce. I think we must all realise that in the past, in the many years in which we have had this ground for divorce, mainly adultery, there has been no public outcry, there has been no public objection to the principle of divorce, so what are we talking about now, Mr Speaker? The next step to consider, if you take that there is only one ground to obtain a divorce, mainly, adultery, one must next consider, well, why not cruelty and why not desertion. What is the difference between a single act of adultery and the situation whereby a husband is continuously beating up his wife and beating up the children over a long period of time. Which is worse? Or let us take the case in which the husband has deserted the wife and children for, say, a period of 2 or 3 or up to 5 years. What is the difference? Why should one act of indiscretion entitle a party to a marriage to seek a divorce and yet things like cruelty, desertion and other factors do not? And then the third step which is the third that the Select Committee took and the view which I would say is the only logical view, is that it should not matter whether it is cruelty, desertion or adultery. What the court has to look at or what the community must be prepared to give legal recognition is to the fact that the marriage has come

to an end. Fullstop. And if a marriage has come to an end if there is absolutely no chance of a reconciliation between the parties concerned, then it is only right and proper that legal recognition should be given to that particular situation. Otherwise the position is totally hypocritical, in my view. So, Mr Speaker, what are we in fact recommending in the report? As I see it, we are updating our laws, we are not introducing a completely new principle. What we are saying is, we are putting it on its right and proper footing. And, as I say, Mr Speaker, in my view the community of Gibraltar cannot continue to close its eyes to these real situations. We, as the legislators, must be prepared and I think we have a duty to ask and to provide the opportunity to those unfortunate people whose marriages have broken down and would like to have recourse to the courts for a divorce. Again, I would reiterate, Mr Speaker, that we are not forcing people to remarry. We are not forcing the Church to do anything. The Church can have its view and continue to have its view. Another point which I have to make on the question of the referendum which I do not believe has been mentioned by any previous speaker in this House, is that in my view, a referendum has absolutely no value whatsoever because what choice are we going to put to the electorate? The Honourable mover of the amendment would like it to be put by way of referendum first of all whether the people want a single ground for divorce, irretreivable breakdown, or my definition that a marriage has completely come to an end and there is no chance of a reconciliation because that is what irretreivable breakdown means. And then he also wants it to be put to the electorate whether a set of facts which one has to establish in order to prove the irretreivable breakdown, whether that should be accepted. But, Mr Speaker, what happens to a member of the public who might say: "Well, I agree with the irretreivable breakdown but I do not agree with the grounds of desertion, I do not agree with the cruelty, I agree with adultery, I agree with desertion but not cruelty". A referendum just cannot work, Mr Speaker. It is silly to do it. I honestly believe that the reasoning, maybe it is not intentional but the reasoning behind some of the Members minds is, yes, we accept the recommendations, we agree that there is a need to change the law but we have not got the guts to go ahead and do it. I think that is wrong. The referendum cannot achieve anything. Do we honestly believe that if we put it to a referendum and we issue all the reports in the English and Spanish language, can we honestly say that people will really take the trouble to read it. As I say, Mr Speaker, the referendum on this particular item to me is of no use whatsoever. Again, I would stress where you have a member of the electorate accepting part of the recommendations and not others what does he or she do in that situation. And, again, I think this point has been mentioned, people whose marriages have broken down and are unable to obtain a divorce, people who have been living with another party and have had children out of this other union, they will of course go and sign on

the dotted line for irretreivable breakdown but those people would sign on the dotted line for anything whilst the majority of the community are really not involved. As far as the Church is concerned, the Church is fully protected because it is within their own right, within their jurisdiction, it is their prerogative to decide not to remarry somebody who is divorced. The Church is protected and I do not accept that the community will be harmed in any way and I think a referendum would be a shambles. Another point is that the Select Committee has been meeting for over three years. We have spent hours and hours, Mr Speaker, deliberating on this matter. Hours and hours listening to people making oral representations, listening to members of the Church, of all the different denominations in Gibraltar, and an opportunity has been given to every single member of the community to make representations. We have done that and at the end of the day we have come out very clearly with specific recommendations including having discarded the question of the referendum. The community have had an opportunity to make their views known. To sum up, Mr Speaker, I say that a referendum would also be a dangerous precedent to have in Gibraltar because if we have a referendum for this which I think is totally impractical and of no value, what will happen next? Do we have a referendum on whether to legalise marijuana? Do we have a referendum on the dockyard issue? Do we have a referendum on whether we should pay income tax or not? We are not dealing here with a completely new concept. If in fact divorce was non existent in Gibraltar today, I would agree with a referendum. If we were talking about abortion, I would agree on a referendum. But the reality is that divorce exists and we all agree, except for the Honourable Leader of the Opposition

MR SPEAKER:

Yes, but we are now going over old ground.

HON J B PEREZ:

Just to end, Mr Speaker. Mr Isola is the only Member who said he is not in agreement with the recommendations so he should vote against but all the other Members who have spoken agree, they face up to the reality and they must accept that divorce exists and, therefore, I would honestly urge them to re-think the whole question of the referendum and perhaps the Honourable Mr Canepa would consider withdrawing his amendment to this motion and, perhaps, when we come to the actual Bill, to the First and Second Reading and Committee Stage of the Bill certain Members of the House will have the opportunity to put in amendments if they feel that the recommendations proposed will make divorce easy. But, Mr Speaker, I am not at all convinced that a referendum is the right way to approach the matter and of course, I will be voting against the amendment.

HON G T RESTANO:

Mr Speaker, I am going to be very brief because we have heard most of the arguments. We have heard them in 1980 and we have heard them again today and yesterday, so I will try to be as brief as I can and just stress the areas which I feel need to be stressed even though they may have been mentioned before. First of all, I would like to congratulate the draftsman of the report, I think it is one of the best reports that I have certainly seen in this House and I think it reflects the three years that the Committee has been sitting and working hard and it reflects very well, it is very clear and succinct and easy to read. Moving to the amendment, Mr Speaker, the second point of the amendment which notes that no electoral mandate exists on the question of divorce, of course, I think it should read on the extension of reasons for divorce, it does not seem to have been mentioned at all by the last speaker. He has skated completely over this particular issue, the fact that nobody in this House has gone to the people and asked the people whether they feel that the divorce laws should be extended or not. It has also been said that perhaps election time is not the proper time to bring up an emotive issue like this and I agree with that. I agree with that because it clouds the issues and I do not think that the result of an election which is clouded by either divorce or abortion or any other matter of conscience would result in a clear-cut conclusion as to whether the people want it or do not want it. That is why I consider that on this one, this matter of conscience of divorce, I think that it deserves that the people be given a chance to vote for it on its own merit and without the clouding of any other issues in an election. I think Gibraltar is split down the middle on this issue and I do not think it is right or proper for anybody in this House to say: "This will be done or this will not be done". I think it should be a matter that the people have to decide, and although the Select Committee has been convinced that there is need for reform, I think that those who have spoken against a referendum, those who have rejected a referendum, are in fact taking away the right of the electorate to decide whether there should or there should not be reform on the divorce procedures. Mr Perez, in his contribution, said that those of us who believe in a referendum were using it as an excuse, that we were afraid of taking issue. He is accusing other Members of this House, therefore, of political cowardice. I believe, personally, that the political cowardice does not come from those who want the referendum but those who have shown and the Select Committee has shown, and it has been pointed out already in paragraph 80, that although they feel very strongly that there should be divorce reform, they feel and they are afraid that the referendum will not give them the results that they would like to see. I think this was reinforced, to me, anyway, by the manner in which the Honourable Mr Bossano spoke. He said: "Oh, yes, the Roman Catholics are going to bring out their divisions and they are going to make people vote this way and

that way. I do not believe that is so but it reflects very clearly to me that he felt that if there was a referendum, that that referendum would not produce the results that he wants and therefore, what is the result? The result is, let us bulldoze this through the House of Assembly. No, I am not giving way to Mr Bossano. I am making my own contribution and if he wants to speak at a later stage he can do so. That is my opinion. He has had his say, now I am going to have my say. I am not giving way, Mr Speaker, and that is clear. Anyway, as I said, I think it is a way of bulldozing it without giving the electorate the chance to have a say in the matter. The Chief Minister said that by having a referendum it would imply that it was three years wasted of the Committee's time. I don't think this is a particularly good argument. Are we going to say that because a Select Committee, be it 5 or 4 men, sit for 3 years or 5 years or 10 years or even 1 year, and produce something which the rest of the community does not like, does that mean on the Chief Minister's argument that because they have sat for 3 years we have got to accept what they say? By that argument the Chief Minister should be accepting the report of the Foreign Affairs Committee in UK on the question of Gibraltar which we certainly do not accept in Gibraltar. It seems to me, Mr Speaker, that probably this amendment will be defeated by a very slim majority, it seems to me, and I think that reflects not only the feelings of this House, not because those of us who ask for a referendum do not want a reform of the divorce laws, that implication must not be made, I personally feel that there should be reform in the divorce laws but I do not think that the Members of this House are entitled, because there is no mandate, to make the change in the law. But on a matter where both sides of the House have a free vote, that there should be whichever way it is, either way, such a slim majority, I think it is wrong, I think it would be morally wrong if the House were to proceed afterwards with the recommendations without going to a referendum. I think the referendum is the way to do it. After all, we are the representatives of the people, none of us here have asked the people what they wanted on this issue, and although we can recommend at a referendum how we feel that they should vote, it is not for us, I think, to bulldoze the recommendations contained in the report onto the people of Gibraltar.

HON W T SCOTT:

Mr Speaker, I really only want to contribute once. I will be speaking on the amendment and the main motion but without necessarily giving up my right to speak within the main debate at a later stage, a brief contribution, should it be necessary. Mr Speaker, I think initially I ought to express surprise at the manner in which the Honourable Mover of the amendment chose to give notice of his amendment, taking the unusual step of giving four day's notice. I find that rather unusual because in my short experience in this House I know of no instance of this nature and I was rather sad that when he moved the amendment he did not explain the reason why.

MR SPEAKER:

It is completely in order.

HON W T SCOTT:

I have no doubt, Mr Speaker, I am not talking about the procedure of the House otherwise I am sure you would not have allowed it, but I would hope that when winding up he will give the reasons why he took this unusual step. Mr Speaker, if I may deal with the amendment in its constituent parts. In part A, which says that it notes the report of the Select Committee on the Matrimonial Causes Ordinance, the Honourable mover knows that I am a confirmed reformist in this matter and that I think that as a Member of the Select Committee I am even more of a reformist and it would be invidious to think that he would be able to persuade me to vote rather than approve a Select Committee report that I have been part of. Secondly, B and C, I think, could be taken together. B, for example, for the reasons that my Honourable Friend, and I think he used them wrongly, on the whole issue and the whole question of divorce no electoral mandate exists on the question of divorce, well, no electoral mandate existed on the question of divorce in 1962, and yet the existing divorce laws date back to 1962. Well, that is my information.

MR SPEAKER:

No, they existed before the turn of the century.

HON W T SCOTT:

Alright, even before the turn of the century. No electoral mandate existed, Members who have continued against reform and there has only been one Member here that has changed his mind and he happens to have changed his mind because he was a Member of the Committee. There have been ample opportunity by Members of this House to have repealed any existing divorce laws that have existed throughout the whole history of their involvement in this House and no single attempt has been made by them to do so. Mr Speaker, the comment that was passed by making it part of a manifesto and for the same reasons as we have heard from individual Members on both sides of the House, it is invidious to think that any of the two majority parties will ever find any form of agreement amongst themselves to make it an election issue, to put it in their manifesto. And in any event, Mr Speaker, it is not done in my estimate, because it could be political dynamite in any case and that is the reason why it is not done. Mr Speaker, I think the Honourable Brian Perez made up a very good case, particularly towards the end, on the question of the referendum when he said that it would be setting a very dangerous precedent. As early as July, 1980, when the Honourable Mr Joe Bossano

brought the motion to the House, we also expressed fears in that direction. And let us make no mistake about it, this issue is only going to affect a few people, a very few people. But other issues, like, for example, the Landlord and Tenant, that is going to affect absolutely everybody in Gibraltar, absolutely everybody and I doubt very much even on that issue, whether either party can come up with a general policy very, very quickly. I think it will take a question of years before it comes up with that. But a more important point on that, Mr Speaker. Yesterday, when we were talking about the honorarium to the Chairman of GBC, I noticed that an aside was passed to the Chief Minister and I made a note of that aside. It said, it would set a very dangerous precedent. That aside was passed by the Honourable Adolfo Canepa and I do not see how he can make a distinction between one and the other. I must say, however, after having said what I have said about the Honourable Mover of the amendment, I must compliment him on the manner of his delivery and the way he fought his case because quite frankly it becomes even more difficult, in my estimate, when he has basically no case to fight. Mr Speaker, within the Select Committee, it was a great exercise for me because I did not have the constraints of any party policy and therefore I feel that all individuals within that, having the same freedom, were able to act entirely and totally within their conscience and I think that is reflected within the report. It is only sad, Mr Speaker, that unfortunately it is impossible to have a Select Committee of the House composed of more Members, perhaps all, because if this had occurred, I have no doubt whatever that Members who are still against this issue would now be talking in the same manner that the Honourable Maurice Featherstone has talked. The reality of the situation, Mr Speaker, is that marriages have broken down and what these people are saying to us is: "Give us another opportunity, the law is wrong, marriages have broken down, we are in these circumstances", and who are we, Mr Speaker, to be less human. Aren't we human as well? Don't these people deserve a second chance? The arguments that I have heard here Mr Speaker, on the issue of the referendum is basically the same argument that we heard in July of 1980. It is the issue of not whether there is a referendum or not, it is the issue whether there should be divorce, or whether there should be a reform of the existing laws, whether there should be divorce at all. Mr Speaker, I am not going to go too far into all the evidence that we heard which of course is a matter of confidentiality, but there are the so called shot-gun marriages of girls and boys who have made that original mistake, and their marriages do not last more than a few months, because they are forced into that situation having made that original mistake. At the other end of the spectrum there is the grandfather who wants to legitimise his son, who himself is a father, and is worried now about his assets because perhaps he only has a few more years to live. Who does he leave them to? Will he have problems with the woman that he is legally married to but with whom he only lived

for 3 or 4 months, who he never really knew, and will he leave the family, his family in the house, in such a situation that his will will be contested, and what will happen then? Mr Speaker, I will finish just by saying, and I think it is reflected here, that the members of the Committee have never had in their minds that divorce should be made easier, as the Honourable Peter Isola has made out. He has come up with a lot of facts and figures about Conservative lawyers, about appointing a Royal Commission to look into that and so forth. But the advice has not been taken by the Tory Government, it has not been taken. The one great thing that all Members of the Committee had, and it is reflected in that report, Mr Speaker, is not that divorce should be made easier but that marriage should be made more difficult.

HON ATTORNEY GENERAL:

Mr Speaker, I think Honourable Members will understand readily enough the point I am about to make and within the House itself think there is no need for me to make it vis-a-vis the other Members but I would not like my position to be misunderstood outside the House and therefore I do want to make a short speech.

MR SPEAKER:

On the amendment?

HON ATTORNEY GENERAL:

On the amendment. The purpose for the referendum is indicated by paragraph B of the motion which says that it notes that no electoral mandate exists on the question of divorce. That being so, Mr Speaker, and as I say for reasons I am sure the House will understand, I will not be voting on this question, I will in fact be abstaining. But the House did charge me with sitting on the Committee and participating in its decision, and although I will be abstaining on the vote itself, I feel I must state where I certainly stand on the matter in relation to the Committee. I can say it very briefly because it is already in the report. Although I will be abstaining on the vote, I myself support the Committee entirely on the question of whether or not there should be a referendum. In short, I would be against a referendum.

MR SPEAKER:

I will then call on the mover of the amendment to reply.

HON A J CANEPA:

Mr Speaker, I think this has been a very good debate. The matter has been discussed exhaustively and it has been very interesting for me to find myself in such full agreement and

to get support from Honourable Members such as the Leader of the Opposition, the Honourable Gerald Rastano, the Honourable Major Bob Peliza, and I found I could not disagree with him on anything that he said. It is amazing when people are able to argue sincerely on what they believe and they have not got issues clouded by politics, what degree of unanimity we can find and yet per contra, I find myself on the opposite side to members sitting now on either side of me. It is most illuminating. The only thing that I am a little bit sad about has been that more than one speaker has chosen to perhaps do less than justice to the motives of those of us who are in favour of a referendum and I think this brings slightly into question our integrity or our political maturity and courage. That I think is sad. It is the only little thing of sour grapes that I have about this debate and I shall be coming back to that later on when I answer some of the Members individually. The Honourable Mr Willy Scott asked why had I gone about circulating the amendment that I proposed to move. Well, for a very good reason. I thought that by doing so I would give Members an opportunity to think calmly about the issue, they would have an opportunity to discuss it amongst themselves, to discuss it perhaps with members of the public over the intervening period, because the danger, I think, in springing an amendment on a motion in the House is that it does not give sufficient time for calm and cool reflection. In the heat of a debate an amendment is moved and perhaps it does not get proper consideration. It is not easy, I think, for all Members to be listening throughout a debate lasting a number of hours to the arguments that are being put. The Honourable Mr Willy Scott was not being listened to by very many Members who are no doubt having the same debate out there and this I thought was why I should introduce this new element. And, of course, I got the idea from the fact that there are occasions when in particular the Honourable the Attorney General gives prior notice of amendments. It germanated there and I thought that by doing that there were two or three Members that had mentioned in 1980 the possibility of having a referendum, that that would give an opportunity for cool reflection and for rational debate and I think that regardless of what the results may be I think that that has been achieved. Mr Scott mentioned that there was an opportunity to repeal the law as it stands at the moment but no one has done that. Why should we repeal a law, why should we do away with a law which gives divorce when what that law requires is that it should be improved, when that law requires that it should be put on an honest basis. I think that there is a need to do that and one of main reasons that I feel reminded that that is the case is precisely the sort of reason which he mentioned in bringing up a particular case of a gentleman who is getting on and who wants to leave his affairs in a proper manner. I think there is a need for civil divorce in order to clear up legal ramifications. It has got to be there. I think it would be wrong, it would be totally immoral to do away with the law

that exists but the law is not an honest law, it is an archaic law. It is a law where to take advantage of it to get a divorce you have to either go through the process, say, of committing adultery or contrive the hotel bed situation. Incidentally, I do not think that it is that bad from the point of view that it contributes to keeping the hotel occupancy levels rather higher than what they would otherwise be. I think it needs to be put on a proper basis if only for that reason. But because it is a great moral issue, it should be done with the full consent of the people and that is I think the extent to which we tend to differ. The Honourable Mr Brian Perez, and I hope he is listening to me out there, said that he was not at all convinced. Of course he is not at all convinced. He has pre-empted the whole debate through being a member of the Select Committee and recommending in the manner in which they have done. Because in 1980 the matter was not debated anywhere near the same length and to the same extent as it has been yesterday and today. It was mentioned and one or two arguments were addressed on the matter but the question of the referendum was not debated at length. And the Honourable Mr Perez, without bothering to listen to any of the arguments, appends his signature to a report which says no, we must not have a referendum and we must not have a referendum because there are a substantial majority who do not want it, who do not want reform. A judgement has been made in this respect beforehand without hearing the sides, without hearing the arguments. What those who are in favour of a referendum are saying let us go ahead and get a mandate and if we have that mandate then let us come back to the House and amend the law accordingly. To speak as he did of giving a right to the minority that wants divorce that, I think, is a dangerous argument. It is only a minority that are going to be affected. Let us give it to them because it is a minority. It is only a minority that wants abortion, it might only be an even smaller minority that wants to commit rape, but those are not arguments for enshrining in legislation the right, if there any, of those minorities. That is a very, very dangerous argument to use and that is where I think the Honourable Major Peliza, in particular, was right when saying: "This is part of a natural sequence on other moral issues in which there is a danger of standards being eroded". And because I perceive that and because I had some inkling of which way the Committee was thinking, that is why I can inform all Honourable Members that I took the step I took in our Party assembly of introducing a motion on the question of abortion. Because I am not going to be caught out again, because if guts are required to amend the law on divorce and I do not think that guts have been shown in that, apart from Mr Eric Ellul no one has ever campaigned on that issue, then the same thing can happen again on the question of abortion. In years to come perhaps a Member could be elected here without having taken a stand on the matter and also introduce a motion that the matter should be legalised, that there should be a select committee set up, that there

should be a referendum, or introduce a Private Member's bill as happened in the United Kingdom. And then what is going to be our position? We have a free vote on that as well? I am sorry that on that one, because of the dangers that I see for the future, I have taken the step of bolting the door to the stable before the horse jumps out. As I say, for as long as I am a Member of this House, Mr Speaker, on any grave moral issue, I shall in future be very circumspect about... referring such matters to a Select Committee. The Honourable the Chief Minister, as has already been pointed out, evinced a rather strange attitude to the whole question of the deliberations of the Select Committee and I think that that argument of it being a waste of time to have a committee deliberating for three years and then refer the matter to a referendum, I think that that has been demolished. We are not going to adopt the same attitude to the report of the Landlord and Tenant. Already we have received representations on that report and because we have received representations and because the Government has to take a view on the matter, the matter has not come up at this meeting. It is a matter for further consideration and I am prepared to bet my bottom dollar that the recommendations in that report are not going to be enshrined in legislation without any amendments because the matters are complex and because they affect a lot of people. But on this report because the recommendations is moved in a certain direction, that is sacrosanct, we must not change that, it would be a waste of time

HON CHIEF MINISTER:

If the Honourable Member will give way. That is not what I said, what I said was that if the idea of a referendum had been seriously considered, then the terms of reference for the Select Committee would have been completely different.

HON A J CANEPA:

The Chief Minister then went on to say: "Nothing is being decided, a bill will be published, representations will be made," and what is going to happen to those recommendations. There will be cosmetic amendments, nothing more, on minor matters but the central issue of that Bill will be to widen the grounds for divorce in the manner recommended by the Committee and that will not be changed, that I am prepared to say is going to remain. That is just paying lip service to the fact that representations can be made. And who is going to take notice of those representations? In the case of the Select Committee on the Landlord and Tenants, the Government has to form a view. The Government is responsible for introducing a Bill, but in the case of any representations that are made on the question of divorce unless one of us in a private capacity as individual members wishes to give effect to that by moving an amendment, not much notice will be taken

and then you have got to argue the case against everybody because there is no party view. I think that that is only paying lip service to the fact that we have not seen the end of the matter. No, the fact is that we have seen the end of the matter because the matter is going to be carried narrowly, my motion is going to be very narrowly defeated, and then of course the report will be accepted and there will be a Bill published before the summer, because the life of this House is running out and we have got to get on with the business of introducing this amendment before the life of this legislature expires. The Honourable Mr Featherstone was the first one, I think, to introduce the question of commercialisation. Mr Speaker, if commercialisation was a matter of conscience it would be out, we would all vote against it. You are not going to refer a matter like that to a referendum. I said in my contribution that the governing party, the Government of the day, has a duty to react to certain issues that come up in the light of the legislature regardless of whether they have been included in a manifesto or not. Commercialisation is one of them. If a government has to decide whether to go to war, you do not hold a referendum. There is an emergency, you act on it. To draw a comparison between the two is utterly ridiculous and I am glad to tell the Honourable Mr Featherstone that it is utterly ridiculous.

HON M K FEATHERSTONE:

If the Honourable Member will give way. Surely on going to war, which is a thing of conscience completely as a Christian one ought to have a referendum.

HON A J CANEPA:

No, Mr Speaker, there are certain issues on which of course the Government has to govern and of course the Members of the House have got to give a lead. I come now to the contribution of the Honourable Mr Bossano and with all due respect to him I think that he was somewhat intolerant. He said that in the assessment that I had made as to how people would react if a referendum were to be held, he said I was talking nonsense. His assessment differs from mine. His is that there will be a high level of abstentions, a lot of votes against from the others because the Church will mobilise its divisions like Pope Pius XII did against Joseph Stalin, and the referendum would therefore be lost. I do not want to describe what he is saying as nonsense. I think that for a man who prides himself on using logic it is odd, to say the least, to find him in a very passionate speech having so little regard for the views of others. He has been during this debate particularly passionate and intolerant because he found, I think, that many Members disagreed with him. And for the Honourable Mr Tony Loddo, who I thought made an excellent speech and my estimation of him increases every time that I now hear him debating in this House because I think that he is beginning to

find his feet and that is for the good of the standing of this House, I thought he made a marvellous exposition which I have already used and which I will continue to use on the right attitude and the right approach to the institution that is marriage. But the argument that we should have a referendum on the issue of introducing divorce does not hold water. Divorce laws were introduced in Gibraltar, as the Chief Minister said, he used a different word, I said by accident, I think he said by a fluke, that is it.

HON CHIEF MINISTER:

I did not say fluke, I do not like the word fluke.

HON A J CANEPA:

I think he said by a fluke. Hansard will show whether he said a fluke or not. Almost by accident, by the application of English law to Gibraltar, that was how it was introduced. At that time, decades ago, there were no legislators in Gibraltar, there were no politicians, there was no electorate, no one had any say in the matter, it was the colonial administration that introduced that, accidentally, if you like, and that is it.

HON CHIEF MINISTER:

No, I am sorry, what I said was that it was introduced indirectly by the application of English Law in 1883 by the Supreme Court Order which applied all the statute law in England at that time which included the Matrimonial Causes Act of 1857.

HON A J CANEPA:

If you hold a referendum on whether divorce should be introduced or not, I think the likelihood is that there would be a majority against it. This was the position in the United Kingdom on the EEC referendum. Probably if the referendum had been held on whether they go in or not, the referendum would have been lost, they would not have gone in but in 1975 the issue was, do we stay in? Because they were in there was a majority in favour of staying in and not going out. I think that if you were to hold a referendum now in Gibraltar on whether the existing divorce laws should be repealed or not, there would be a majority who would say no, do not repeal them, because that is the natural inclination, not to alter the status quo. But what disappointed me was the motives which the Honourable Tony Loddo ascribed to those who are in favour of the referendum that there was the underlying religious ground and I think that that has been more than exploded by the Honourable Mr Zammit, who though not a practising catholic is in favour of a referendum so there is no underlying religious motive. The Church is not cracking any whip at him and yet we have my Honourable Friend Mr

Featherstone here on my left, who is a much more orthodox, a more conservative, dare I say reactionary catholic than I am, who is against the referendum and who has been convinced through his deliberations in the Committee. During the debate in 1980, the two people who spoke most passionately against the whole issue of divorce were the Honourable Leader of the Opposition and Mr Featherstone and Mr Featherstone was more reactionary than the Leader of the Opposition on that matter. To ascribe religious motives Mr Speaker, does less than justice to the intelligence of those of us who feel as we do on this matter. I have said in my opening remarks in introducing the amendment, that I myself would not wish to deny to others what on religious grounds I do not accept. To me, marriage is an indissoluble union on canonical grounds. I do not want to impose that on others and I said that that was the case. And that is why I said that I could go along with reform of the divorce laws but, apparently, the Honourable Mr Tony Loddo did not believe me in this, he may have thought that my motives were not genuine. He went on to say that eight people are elected in Gibraltar to govern. Yes, people vote for eight, they elect the Government of eight. They elect a Government of eight to govern and to form a view on issues that come up during the course of their term of office. But eight people are not elected to form a Government and then split up on the issue of a referendum and split in the vote on divorce in the manner in which we are going to do. That is not what the electorate of Gibraltar elect us here for. I agree that it should not be clouded by the other arguments that are going to pre-dominate in an election campaign. That is why it makes to isolate it and put it to the people in a referendum. It is clear, I think, from the contributions in the House on this debate that those of us who are in favour of a referendum are going to lose the vote narrowly. When this debate then reverts to the substantive motion, in so far as that motion is concerned, I will not vote against the approval of the Report and in fact I am not voting in favour because of the one paragraph that I have got serious objections to, as I said right at the beginning, that I take issue with. The fact that they have pre-empted the whole question of the referendum. Were it not for that I would support the main motion as I will be able to support in due course the legislation that no doubt will be introduced in the House. Whilst arguing the House to consider and to approve the issue of a referendum without any worries about the precedents that are going to be established, no one is going to ask for a referendum on anything that affects them which the Government or which the House may legislate on. It is only on serious moral issues that it is proper to have a referendum. There can be no fear of that Whilst asking the House, therefore, if the motion is defeated as I suspect that it will, as I say, I can feel nevertheless that there is a need for reform in the manner indicated by the Committee because of the social aspects of the matter, because of the civil aspects of the matter, because of the need to have

in law a situation which enables people to clear up the very serious legal ramifications that there can be in a situation in which people have not been living together for many years and there is a need for the law to recognise that situation regardless of what the religious point of view may be.

Mr Speaker then put the question in the terms of the Honourable A J Canepa's amendment on a division being taken the following Honourable Members voted in favour:

The Hon A J Canepa
 The Hon A J Haynes
 The Hon P J Isola
 The Hon Major R J Peliza
 The Hon G T Restano
 The Hon H J Zammit

The following Honourable Members voted against:

The Hon J Bossano
 The Hon M K Featherstone
 The Hon Sir Joshua Hassan
 The Hon A T Loddo
 The Hon J B Perez
 The Hon W T Scott
 The Hon Dr R G Valarino

The following Honourable Members abstained:

The Hon I Abecasis
 The Hon D Hull

The following Honourable Members were absent from the Chamber:

The Hon Major F J Dellipiani
 The Hon R J Wallace

The amendment was accordingly defeated.

MR SPEAKER:

We have before the House the question as moved by the Honourable and Learned the Attorney General. Does any Member wish to speak on the main motion?

HON MAJOR R J PELIZA:

Mr Speaker, I am only going to say the way I am going to vote and explain why, that is all. I do not intend to go into the whole argument again because I think this has been more than debated already. My intention was to abstain at this stage because I do not want to give an indication by any means that I agree with the House proceeding any further without referring the matter to a referendum and for that reason

although I agree with the report, as I said before, I feel that I should abstain. But now that I see that the amendment has only been defeated by one vote, I do sincerely hope the Government will take that situation into consideration and I think the argument for holding a referendum is even stronger than ever now because I doubt very much whether the people of Gibraltar will see it kindly that this should be bulldozed through with only a majority of one in the House. Therefore I intend to abstain because of that.

HON CHIEF MINISTER:

There is no question of the Government taking a view now because of the result. It has been a free vote and it will so remain. It would be beneath the dignity of the House for the Government now to take a view when it did not take a party line and impose the wish of a minority.

HON W T SCOTT:

I would refer to the point raised by the Honourable and Gallant Bob Peliza. He talks about the narrow majority of one vote. Well, on a motion of censure on the Government that we introduced if the Honourable Joe Bossano should decide to vote for it, the Government majority is one in any case so it is nothing unusual to have a majority of one vote.

HON A J HAYNES:

The point raised by my colleague, Major Peliza, on this narrowly defeated amendment, is one which nevertheless does bear close examination because we are talking of a free vote, we are talking of what in effect when a free vote means an ideological lottery and in this ideological lottery we have got almost deadlock. Within the party framework of both main parties in this House there is a personal deadlock which has resulted in the matter being a matter of conscience and now that internal deadlock has been extended within the House to include a further deadlock. Unlike my Learned Friend, I do not believe that the Government should at this stage intervene because obviously this has been a free vote and I do not think they can now change it. But I do think that it is a matter for regret that an issue of this importance should be carried by such a narrow majority. I feel it indicates a need for a reference to the wider population of Gibraltar. Mr Speaker, whilst I accept that the issue as to whether there should or there should not be a referendum has been debated amply in the amendment, my comments are now addressed to the result that was attained, a vote of 7 to 6. I think it does bear comment in the main part of the motion and in fact I may say that I concur entirely with my colleague Major Peliza, and I shall abstain in the context of the report and I shall therefore refrain from commenting on it except that I reserve my

right at Committee Stage to introduce amendments if I so feel necessary. But at this stage, Mr Speaker, I feel that there is nothing I would like to say further on the report except to note that as a result of the difficulties that have been found in this House in obtaining a majority to stop a referendum, it makes me feel, Mr Speaker, that the decision is unsafe. When I say unsafe, Mr Speaker, I really take the terminology in its legal sense from the concept, that certain matters when put to a jury would be unsafe, for instance a case which is based on mere suspicion, if passed on to a jury would be unsafe, similarly certain decisions by juries can be classified as unsafe and I think whilst that is the legal background to it, Mr Speaker, the commonsense understanding of it is clear. I think that the result in the preceding amendment which has been so narrowly defeated and which has revealed in this House the depth of feeling on the subject, makes it an unsafe decision, I shall abstain and that is the reason why I am abstaining, Mr Speaker.

HON CHIEF MINISTER:

May I say something which I should have said before and that is that if the amendment would have been carried by the same majority, the Government would have undertaken to carry out the direction of the House as a whole and have proceeded to prepare the necessary machinery for carrying out a referendum.

HON A J HAYNES:

I am not sure if the Honourable Member was referring to a majority the other way would have been equally unsafe, Mr Speaker, surely not? A majority the other way would have indicated that a higher court of appeal would have been involved which is the exact requirement to prevent something being unsafe and not another case of an unsafe decision, Mr Speaker.

HON A T LODDO:

Mr Speaker, I realise that yesterday I said I was only speaking once and only once but I would crave your indulgence to make an observation.

MR SPEAKER:

If it is an observation which you have not made before you are completely entitled to do so.

HON A T LODDO:

The observation is as follows, Mr Speaker, and it is to urge those who wish to abstain not to do so for the following reasons. The way I see it, the voting today has been

basically the same as it was when we debated it the first time with one notable exception, the notable exception being the Honourable Mr Featherstone who because he has been sitting in that Select Committee and has seen the evidence....

MR SPEAKER:

That is repetition, with due respect to you.

HON A T LODDO:

My observation was that perhaps had the other Members of the House seen all the evidence the voting would have been completely different.

MR SPEAKER:

That has been said in the debate itself. Does the Honourable and Learned Attorney-General wish to reply?

HON ATTORNEY GENERAL:

Briefly, if I may. Mr Speaker, I do not want to cover ground that has already been said but I would like to refer very briefly to some matters which are of importance. There is the evidence available for Members of the House to consider when coming to a conclusion on this, of course. The other matter I would like to refer to about the evidence that was given is that as a matter of fact it is not correct to say that those people who came before the Committee and came because they had personal problems were vociferous. They were very reasonable people, very restrained people, and I think if Members care to look at the evidence they will see that that was so. In fact, one Member has already made the point that he was very impressed by their manner, I think we all were. Mr Speaker, the other point I would like to make is that I don't think that this report is a recommendation for easy divorce at all, I think it is simply redefining an existing principle of divorce and it is redefining it in such a way as to recognise, as has been said, the reality that there are some cases when as regrettable as it may, a marriage has broken down and in those cases recognising that to avoid hardship. I think that apart from that what it is seeking to do is to find a proper rationale for saying: "This marriage must be recognised as being at an end". To that extent I think there is a positive as well as a negative side to it and that is that the positive side is to secure marriages that have not broken down. I would just mention, Mr Speaker, as everybody is aware, the grounds are more tightly defined than in the United Kingdom, and there are other provisions that are aimed at bolstering marriage such as the age limit recommendations and the counselling recommendations. So far as counselling can reasonably go, because I think in moving the motion in the first place I made the point, which I think is a real point,

that there is a limit to how far counselling can really stop a seriously damaged marriage. Mr Speaker, on the question of so-called divorce, I think Members may wish to consider what are the causes of easy divorce and I don't think the causes are really attributable to proposals of this nature. I think the causes of easy divorce depend on people's attitudes and nothing in these proposals will require anybody to get a divorce against their conscience. Nothing in these proposals will force anybody into obtaining a divorce. If I may say so as an outsider, it seems to me if we are considering attitudes, is it really likely, having regard to the previous history of the Matrimonial Causes legislation in Gibraltar, is it really likely that one measure such as this will change the deeply held family attitudes of Gibraltarians and the strength of those attitudes, I think, is very obvious, to somebody who does not come from here. The other point I would make Mr Speaker, is that before there can be any further changes there has to be legislative approval. The last changes were in 1962 and I think I am correct in saying that over a long period of time there have been very few changes in the Matrimonial Law. One other point I would like to deal with, Mr Speaker, is that when the Select Committee refers to the question of an additional Judge, we were not doing so in order to contemplate a prolonged spate of divorces, we made mention of an additional Judge simply because if our assessment of the situation is correct and if these measures are adopted, there will be a period in which there will be more divorces than normal but we were not in any sense recommending an additional Judge because we foresaw an ongoing spate of divorces in Gibraltar. Finally, Mr Speaker, I would like to thank the House for its reception of this report, for what has been said about this report and also, if I may, on behalf of the Committee, I would like to thank the Clerk of the House of Assembly and the staff for the support and the work that they did throughout the sittings of the Committee.

Mr Speaker then put the question in the terms of the Honourable the Attorney-General's motion and on a division being taken the following Honourable Members voted in favour:

The Hon J Bossano
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A T Loddó
The Hon J B Perez
The Hon W T Scott
The Hon Dr R G Valarino
The Hon D Hull

The following Honourable Member voted against:

The Hon P J Isola

The following Honourable Members abstained:

The Hon I Abecasis
The Hon A J Canepa
The Hon A J Haynes
The Hon Major R J Peliza
The Hon G T Restano
The Hon H J Zammit

The following Honourable Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon R J Wallace

The motion was accordingly passed.

BILLS

FIRST AND SECOND READINGS

HON ATTORNEY GENERAL:

Mr Speaker, with your leave, I am not sure if it is necessary for me to move the waiving of Standing Orders in relation to this Bill.

MR SPEAKER:

No I think the suspension of Standing Orders is required for the Landlord and Tenant (Amendment) Ordinance because we were not given 7 day's notice but not in respect of the others. I suggest that you move the suspension of Standing Orders for the four Bills at one and the same time, and then we can proceed with them.

HON ATTORNEY GENERAL:

I am sorry Mr Speaker, I am not quite clear.

MR SPEAKER:

I would suggest that in order to obviate the need to suspend Standing Orders on each occasion that you move the First and Second Reading of the Bill, if you move it once for the four Bills we can carry the suspension of Standing Orders for the four Bills.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that the suspension of Standing Order No.30 in respect of the Landlord and Tenant

(Temporary Requirements as to Notice) Amendment (No.2) Bill 1983; the Income Tax (Amendment) Bill 1983; The Stamp Duty (Amendment) Bill 1983; and the Estate Duties (Amendment) Bill 1983.

This was agreed to and Standing Order No.30 was accordingly suspended in respect of these Bills.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS AS TO NOTICE) (AMENDMENT) (NO.2) ORDINANCE, 1983.

HON ATTORNEY GENERAL:

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

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

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be read a second time. I could be accused of being facetious which I would not wish to be, if I were to say that this is the annual measure. This of course, is a Bill to further extend the moratorium on rent increases. The Bill as drafted proposed the extension until the 31st, the last day of July, 1983, but in view of what has been said in this House earlier in this meeting, I will be moving in Committee a further amendment to extend it till the end of November, 1983. Sir, I think the Bill is short and I think that Members know its import and I commend it to the House.

MR SPEAKER:

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

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

MR SPEAKER:

It is, I think the first occasion that I have noticed in the House that a Second Reading of a Bill is being carried by a majority of the Opposition.

HON ATTORNEY GENERAL:

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

This was agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Chapter 76) be read a first time.

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

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Income Tax (Amendment) Ordinance, 1983, be read a second time. The provisions in the Bill will give effect to the proposed budgetary measures in relation to companies which are owned by non-residents and meet certain qualifying criteria. Companies which will be referred to as qualifying companies. The House will recall that the proposals were outlined when I spoke to the Second Reading of the Finance Bill and I now propose to explain them in somewhat more detail. Only companies whose trade or business is such that all receipts and income arising in the ordinary course of such trade or business outside Gibraltar or from dealings with other qualifying companies and tax exempt companies would be involved. The qualifying criteria will be prescribed by rules which will need the prior consent of this House. The criteria will be similar to those which a tax exempt company has to satisfy that a qualifying company must have a minimum paid up capital of £1,000 as opposed to £100 for an exempt company. There will be restrictions on the holding of investments in Gibraltar and on transactions in companies shares and no Gibraltar or resident of Gibraltar may acquire an interest in the shares of the company other than a share holder in a public company whose shares are quoted in a recognised manner. A company which meets the prescribed requirements will be issued with a certificate for which it will have to pay an annual fee of £250 and make a deposit of £1,000 on account of future tax liability. In return, tax will only be charged on its profits of 2p in the £ when they are not remitted to Gibraltar. Profits remitted to Gibraltar will attract a tax of 27p in the

£. Tax will also have to be deducted from dividends at the same rate as the company is liable. This is because from the company's viewpoint the tax deducted from the dividend is offset against the tax payable by the company on its profits. Hence the need for a matching rate. A complication arises when only part of a company's profits is remitted to Gibraltar and both rates of tax apply. This, however, is covered by subsection 5 of the new section 27A proposed in clause 4 of the Bill. The tax will be deducted from interest, directors' fees and other sums payable by the company to non-residents, it is 2p in the £. If they accrue to residents the deduction will of course be at the standard rate. Such payments are not appropriations of profits and the tax which is deducted at source will be paid over to the Government as additional revenue. It would be counterproductive to subject non-residents recipients to the comparatively high rate of tax of 27p in the £. A breach of any of the qualifying criteria or of a condition endorsed on a certificate would render the qualifying company liable to have its certificate cancelled and to tax being charged on its taxable income at the ordinary rate of 40% as for any other company and the tax to be deducted from, dividends, interest and directors' fees will be at the standard rate. A breach will also annul the estate duty and stamp duty exemptions which are being recorded to qualifying companies under the Estate Duties and Stamp Duties (Amendment) Bills being introduced to the House at a later stage in this meeting. But if I may, Mr Speaker, I would like to outline for completeness the proposals in those two Bills, with your leave. The exemptions in the Estate Duties and Stamp Duties (Amendment) Bills are exactly the same as those currently enjoyed by non-residents who have tax exempt companies. That is, first of all, exemption from estate duty on shares in loans made to and debentures held in the company as well as on policies of life insurance issued by the company and the value of such shares, loans, debentures and policies will not be taken into account or aggregated with any other property for the purpose of determining the rate at which estate duty is payable on any other property. Secondly, the exemption from stamp duty. No stamp duty will be payable on the issue of a life insurance policy or on an annuity paid by a qualifying company to a non-resident. Nor will stamp duty be payable on any dealings by way of sale, mortgage or other means with any such policy or annuity. I should mention, Mr Speaker, that it is not the intention to issue qualifying certificates for the time being to insurance companies that are not already established and trading in Gibraltar but consideration would be given for the grant of a qualifying certificate to certain companies to enable them to hold investments in Gibraltar as distinct from trading. Each case will be considered on its merits. To extend the facilities to foreign based insurers at the moment would only add to our present problems on insurance. It is important that we should first have adequate insurance legislation backed by a suitable

insurance supervisory system to ensure that only sound insurers establish themselves in the territory. A tax concession might well attract precisely the insurers whose finances are most precarious. The aim of the proposals, Mr Speaker, is to attract more off-shore business to the territory and although the benefits cannot be quantified at this stage, the proposals now before the House are expected to increase the attraction Gibraltar has to offer as an off-shore centre. Lastly, Mr Speaker, there is a proposal in the Bill, not directly related to the subject of qualifying companies, which I should mention. I refer to Clause 3, which aims at replacing Section 7(1) UA of the Income Tax Ordinance. The House will recall, Sir, that it did not proceed on a similar amendment to this section during the Committee Stage of the Finance Bill, in the light of the Honourable Leader of the Opposition's most helpful observation that the amendment then proposed would leave the door open to the avoidance of tax on income accruing locally to a non-resident from, for example, the renting of a property in Gibraltar which might be transferred to a trust. We found on closer examination that that loophole already existed. The proposed new section defines more accurately the exemption by making it applicable only in those instances where the income of the trust would have already been exempt from tax in the hands of a non-resident were it not for the fact that it is received or approved in Gibraltar. This, I think, covers the Honourable Member's point and enables the exemption which is granted to non-residents on bank and building societies interest under Section 7(1) TB of the Income Tax Ordinance to continue to apply when the interest is paid to a trust. Also, by including the trust in the exemption the incidence for tax on accumulated income is avoided. This is essential to attract off-shore business. As the Section stands, the exemption only applies when the income is received by the non-resident beneficiary himself and not the trust. The new section will also establish that the exemption is not affected by the residency of the trustees. There is one other point that has arisen since the bill was printed, Mr Speaker, and which shall need to look at. That is that in Clause 3(i) it says: "the trust is created by non-resident persons". I think that there is possibly a need to cover trusts created on behalf of non-resident persons and I am consulting with the Attorney-General and if necessary we may need to move an amendment at the Committee Stage of the Bill. This will cover a point on which there is some doubt at the moment. Sir, I commend the Bill to the House.

HON P J ISOLA:

Mr Speaker, we support the Bill. In actual fact, there were two points that I was going to make on the Bill. The first one the Honourable the Financial Secretary has already mentioned it and that is that it seems to me that in Section 3, the words "or on behalf of a non-resident person" should be inserted because most of these trusts are £100 trusts and they

are really down on behalf of non-residents and there is usually a nominee company that acts as set law. Certainly, I would hope that an amendment would be moved, I would be quite happy to move it myself to the words: "Or on behalf of a non-resident person", and once that is done, Mr Speaker, I think that Clause is now in a satisfactory form and achieves the objective we wanted. The other point with regard to qualifying companies, may I ask, will the prescribed requirements be set down in regulations or in the form of a memorandum because I think one should have it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In rules.

HON P J ISOLA:

In rules, well, that is fine, that answers my point. Those were the only two points I have got to make on it. We hope this will extend the finance centre activity of Gibraltar. I think one does not quite know what is going to happen with this, I hope it is successful.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

THE STAMP DUTIES (AMENDMENT) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second time. With your leave, Mr Speaker, I do not propose to make a

second reading speech on this, I have covered it in the speech on the Income Tax (Amendment) Bill. It is a consequential amendment to the Stamp Duties Ordinance and I commend the Bill to the House.

MR SPEAKER:

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

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 subsequent meeting of the House.

THE ESTATE DUTIES (AMENDMENT) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the Honour to move that a Bill for an Ordinance to amend the Estate Duties Ordinance (Chapter 52) 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 principles of this Bill was covered in my second reading speech on the Income Tax (Amendment) Bill. I don't intend to develop on it. I commend the Bill to the House.

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

COMMITTEE STAGE.

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the House should resolve into committee to consider the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No.2) Bill 1983 clause by clause.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENT AS TO NOTICE) (AMENDMENT) (NO.2) BILL, 1983.

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

Clause 2.

HON ATTORNEY GENERAL:

Mr Chairman, I beg to move the amendment to which I have given you notice. In Clause 2(a) to omit the words "31st day of July, 1983" and to substitute the words "20th day of November, 1983". The effect of that Mr Chairman will be to extend the period of the moratorium. Would you wish me to move the second one as well?

MR SPEAKER:

Yes, certainly, if it is an amendment to the same Clause.

HON ATTORNEY GENERAL:

It is a consequential amendment, Mr Chairman. In Clause 2(b) to omit the words "1st day of August, 1983" and substitute the words "1st day of December, 1983".

Mr Speaker then put the question in the terms of the Honourable the Attorney General's amendment which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

HON CHIEF MINISTER:

The point is that having regard to the complexities of the Report on the Landlord and Tenant and the fact that it was

not possible even to accept the Report now and that there have been representations on both sides, I cannot see the Bill becoming law before the October meeting. I think the Attorney General was hopeful that too much would be done at this meeting in respect of that and it is impossible. As has happened on two previous occasions we do not want to give it a very long extension.

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

THIRD READING.

HON ATTORNEY GENERAL:

Sir, I have the honour to report that the Landlord and Tenant (Temporary Requirements as to Notice)(Amendment)(No.2) Bill, 1983, has been considered in Committee and agreed to, with amendments, and I now move that it be read a third time and passed.

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

PRIVATE MEMBERS' MOTION.

HON W T SCOTT:

Mr Speaker, I have the honour to move the motion standing in my name. "This House deplores the deteriorating situation in rubbish collection and disposal which is so damaging to Gibraltar, particularly its tourist image, constitutes a potential health hazard to its residents, and urges Government to act with resolution in taking effective measures to ensure a clean and tidy Gibraltar". I might say at the outset, Mr Speaker, that I had hoped that the motion proposed by Mr Bossano would have been taken a little bit earlier than mine so that I would have had, perhaps, a little bit more time to prepare myself, particularly see the state that Gibraltar would be in at lunchtime. Mr Speaker, I think, generally, it is rather sad to note that we have met this morning at 9 o'clock rather than at 10.30 as would have been our usual time of meeting today, and that I can only presume is action taken by the IPCS either in sympathy with the people concerned with street cleaning, refuse collection and refuse disposal and the action in the strictest terms that the Honourable Member opposite said yesterday, but it is none the less industrial action. I think it is rather sad that this House should be meeting under these circumstances. Mr Speaker, the motion is divided into four distinct parts. The first one reads: "This House deplores the deteriorating situation in rubbish collection and disposal which is so damaging to Gibraltar". I am also sad that when the press was circulated with this by the Clerk, GBC, I think it was on Friday, sadly omitted one

very important word in that first part. And that word is "deplores". Whilst I deplore the deteriorating situation in rubbish collection and so on, I also deplore GBC having omitted the word "deplores" and I think they ought to learn sometimes from what happens and what occurs and the contribution that Members make to this House and make absolutely sure certainly in what is a hand-out to them. I do not think, Mr Speaker, to get back to the motion, there is no doubt whatever in our minds that the situation is deteriorating and that it is being deplored by the vast majority of citizens in Gibraltar. I think there is no doubt of that whatever. And there is no doubt in my mind that because this situation has not only existed but it has very severely deteriorated, that it is also very damaging to Gibraltar. Which leads me to the second point, "particularly its tourist image". Mr Speaker, Gibraltar is facing a very uncertain future but there is one element of our economy that we should be working towards with vigour and initiative and that part of that economy is its tourism. I certainly can tell the House on my own personal experience, and I am sure that Honourable Members could do the same should they choose to, of the comments that they have heard from tourists, particularly tourists who have been coming before and tourists who have never come before as well, and how they react to this situation. They say: "Gibraltar is so dirty, Gibraltar is so filthy. I think I will have to think very, very strongly come next January when I decide where I am going to go on holiday". They would not like a repetition of the process they are being subjected to at the moment. Coming in an era where we ought to be trying to sell more tourist beds, more tourist flights and improve the tourist image of Gibraltar. I don't think there is any doubt of that and certainly not in our minds. That it constitutes a potential health hazard, again, Mr Speaker, no less an authority than the Public Health Department. Last Saturday in the Chronicle, a leader article, and other than the editorial, it took the whole of the front page and a substantial part of the back page as well. The spokesman for the Environmental Health Department had a number of things to say about the potential health hazard. "The piles of refuse at street corners are an attraction to rodents such as rats and mice which are themselves carriers of disease. Rats are also coaxed out of their usual runs in sewers with increasing risk of the spread of disease of different origins". The diseases which are most likely to result from this situation are described as gastro-enteric, such as typhoid, paratyphoid and dysentery as well as food poisoning due to salmonella and so forth. Mr Speaker, I do not know if the medical authorities in Gibraltar relate an outbreak of disease of that nature, food poisoning, gastro enteritis and so on. The flies moving from rubbishheaps and litter etc., and then finding their way into food which need not necessarily be stored in a refrigerator and they have taken any statistics, whether every time that there is an outbreak of gastro enteritis, it happens to occur when there are problems with the rubbish collection. Because if there isn't I think it is high

time this should happen so that statistics could be made available to the public, to educate the public and perhaps with a little bit more pressure into the solution of any industrial action that might be taken by the union. Mr Speaker, the fourth and last part, "and urges Government to act with resolution in taking effective measures to ensure a clean and tidy Gibraltar". Mr Speaker, the principle words here being "resolution" and I am very glad to have heard the Minister for Public Works yesterday, in answer to continual probing from Members on this side of the House, saying how Government finally intended to take some measures to obviate this situation recurring and to take measures that in our minds are very, very necessary for the reasons I have already mentioned. When I talk about resolution, Mr Speaker, and I make no bones about it, the Unions and the Union Members have a very important part to play not only to the people that they represent, but a greater part must be to the community at large. That is the manner in which I feel that Government, not only on this issue but in all issues should act, with the resoluteness which I feel the people of Gibraltar at large except Government do. Government is there and it is elected to govern and if necessary, if there has to be a disagreement with the unions, well, let us have disagreement with the unions. But let us make absolutely sure that the fight is a correct one and a right one. I feel that in this particular case it is a very correct and a very right fight and the whole of Gibraltar will be behind the Government on this so long as they act with that resoluteness that we are all expecting and I feel that the Government will have a lot of support from us on this thing. The Minister for Public Works need have no fear on that account. But coming back to the historical element, why have we got ourselves into the situation where people in the refuse destructor are working 71 hours? We cannot understand this. It seems to me that the action which is now being contemplated by the Minister and the Government could perhaps have taken place some time ago precisely to obviate that kind of situation today and particularly now as Gibraltar is facing its greatest unemployment ever, where we are now paying a substantial element of overtime to certain individuals and to others we cannot even create a vacancy for them. And surely if there is any cake, whatever cake there is has to be shared for the greater distribution of wealth. That, I think, is totally consistent even at a very late stage, when we were talking about the budget, that has been our approach all the way through in the budget. Whatever cake there is must be shared equally and a dropping of excessive overtime level, certainly, and particularly when there is an increasing unemployment situation in Gibraltar. Mr Speaker, if one looks at the estimates, we see that in Head 20, Public Works Annually Recurrent, we have 3 sub-heads which are concerned with the subject matter of the motion. Sub-head 38, 39 and 40, the Cleaning of Highways, the Collection of Refuse and the Disposal of Refuse, and that bill is almost three quarters of a million pounds a year. It is an enormous sum, Mr Speaker, certainly in

relation to the context of the whole budget. It is an enormous sum. But after having said that, I see some attempt has been made to cut it down between even the revised estimates of 1982/83 and 1983/84 estimates, at least some attempt has been made. But the sum is still colossal, it is still £2 million. The Public Works Department were subjected to a Committee of Enquiry in 1981. They had a very substantial number of recommendations and I won't bore the House, Mr Speaker, because the recommendations totalled 81, some of which we have heard at previous meetings of the House that the Government had accepted. What we do not know, Mr Speaker, is how many of those recommendations that were accepted by Government have been implemented, I would hope to hear that in the Minister's contribution, we might have some indication of the implementation of the recommendations acceptable to the Government. There is one, in fact, that I know that they have accepted and implemented and that is the comment that they made on a certain duplication between the Housing Department and the Public Works Department on the collection of refuse. They still said, Mr Speaker, that as far as they felt, it seemed to be a very large sum to pay for the service given and mentioned the Gibraltar problem of ageing manpower at supervisory levels. I wonder whether any action has been taken on that. That is paragraph 76 of the Report. The recommendations dealing with that state: "The ages of workmen employed at all levels should be examined to ensure that they are not being called upon to carry out duties which may be beyond them". I wonder what steps, if any, Government has taken about that recommendation. The question of the existing agreement should be examined and its provisions brought to the attention of the men. The possibility of making refuse skips available in certain areas should be explored. A very important one, Mr Speaker, an item of legislation we passed here some time ago and I think it has been my Honourable Friend and Colleague, Mr Loddo, who has been consistently asking questions on this, and that is the enforcement of litter legislation. The recommendation was that there should be a determined effort to enforce the law relating to the depositing of litter. Let the Government make absolutely no mistake that the problem with the rubbish collection, cleaning and disposal is not peculiar to Government on its own or the unions, I think the Gibraltarian at large has to be further educated, has to go through certain practices because if he doesn't then we must enforce that law and it is only by enforcing that law that it seems to me that the Gibraltarian can be educated as a real responsible member of the community in so far as rubbish and refuse is concerned. Another recommendation dealt with the Education Department. It should continue to educate and inculcate litter mindedness in children and it deals very much on the question of education to the community at large that I was talking about earlier on. There was a concerted campaign, I think it was about a year or so ago, by the Government, on a clean and tidy Gibraltar and that followed a

recommendation of public relations. But when we are facing this problem, Mr. Speaker, and I think it first really started and it started with a vengeance during the Easter week-end, I would have thought that that would have been an excellent time to re-introduce the clean Gibraltar television campaign and press advertising. But there has been no move and I thought a little bit further. And in thinking back, the Keep Gibraltar Tidy Campaign came at a precise time when there was a dispute on advertising between GBC and the Chamber of Commerce. I do not know, there seems to have been a slotting in for Government, perhaps to help GBC at the time. I do not know, but it seems to me rather peculiar that that was the timing. And I would have thought that the timing was even more important now, when we have an enormous problem with the rubbish in Gibraltar. We see it all day, every day. We see it in street corners, we see it in Main Street on the kerbside, we see it all over the place. We also see, Mr. Speaker, that something like £23,000 has been spent on a street cleaning vehicle and it is never used. It cannot be used. Let us act with some form of resolution, coming back to the word in the debate. Resolution, Mr. Speaker, for the benefit of the community at large. I think the unions also have got to protect their own members, of course they have got to protect their members but there is a greater responsibility with this House, particularly in Government. They are there to protect the community at large, all of them, not just a certain sector. Finally, Mr. Speaker, as I have said, I could go on with that report ad infinitum, but I will not bore the House. Finally, and I have got to reiterate it again, one hopes that the Minister's remarks yesterday on resoluteness, of the new approach, will be transformed into some action which Gibraltar has long needed and which the Gibraltarian and Gibraltar justly merit because otherwise, Mr. Speaker, I feel that one of the few alternatives left is perhaps some action that has already been taken by certain boroughs in the United Kingdom quite successfully, and I know my Honourable Friend will argue vociferously against it, but I have taking the trouble, Mr. Speaker, to have some facts and some figures which I will make available to the Minister, should he want to, on the need for a service review, and I use the word unshamedly I do not use the word privatisation, I use the word service review because the review could contain an element of direct labour

MR SPEAKER:

Could we just pause for two seconds whilst we are having the tape changed from the machine that is not working properly. You can continue now.

HON W T SCOTT:

Within the service review, there could be an element, I am not excluding that, and I do not use the word privatisation, it is important that Members of the House, and particularly my friend

on the left should take note of the word I use, of the expression I use. And that within this service review, it is not unnecessary that there should not be a direct labour element involved. Of course not. Finally, Mr. Speaker, I am not going to go through all the advantages or disadvantage of service reviews, I think we shouldn't within the context of this debate, I think this could probably be left for some form of personal guidance, if you like, between myself and the member responsible for Public Works but, finally, Mr. Speaker, I do not think there is any question on the four points, the dissemination of the motion on any of them, and I commend the motion to the House.

Mr. Speaker then proposed the question in the terms of the Honourable W T Scott's motion.

HON M K FEATHERSTONE:

Mr. Speaker, I think the motion has a number of points which are deserving of merit, although to some extent it is not as accurate as perhaps it might have been. Let me start by going through the three headings that the Honourable Mr. Scott has mentioned on which £2 million is spent, that is not such an exorbitant amount when you consider the task that is actually in front of Public Works. But these three areas actually break up into four units. There is the collection of general household rubbish. This is done by the refuse collectors and I do not think over the past 18 months or so there has been any reason to consider that they have not done their job efficiently and properly. In fact, even today, the refuse collector section of the Public Works is working very well and very efficiently. The other three sections are the sections which, as I have said strictly are not in dispute with Government but in actual fact are creating a considerable measure of frustration and are getting close to what may become an industrial dispute. These are the refuse disposal section, the lorries which go around during normal day-time hours and pick up accumulations of rubbish in various areas, and the road sweepers. I will deal with each of these sections separately. Let us start with the refuse disposal element. Sir, as the House well knows, this year because the budget brought in certain financial stringencies, we had to have a very severe look at all sections of where we are spending public money and one of the sections that we looked at was the disposal of refuse where, and I admit it, Sir, perhaps we were not being as economical as we should have been. This has been something that has been almost inherited over many years of practice and I think the Honourable Mr. Scott will be the first one to agree that it is a wise and prudent department which tries to get the best out of its machinery and works its machinery on the most efficient basis. The Refuse Destructor was not being used on the most efficient basis. The Refuse Destructor takes one hour to switch on and

one and a half hours to switch off, which means $2\frac{1}{2}$ hours of every working day are completely, I will not say wasted, but are completely without any burning capacity. And if you only have an 8 - hour day, then if $2\frac{1}{2}$ hours are used in starting up and switching off the amount of burning time left in comparison only gives you perhaps a 60% efficiency working ratio. It would be far better to burn for a much longer period and still have your switching on and switching off and perhaps burn on an 80% ratio, more so if your short period of burning time happens to be on a Sunday when wages are paid at double time and so, in considering how we could save money and become more efficient, it was considered that we would cut out the short-term burning on a Sunday and only work from Monday to Saturday, giving a longer period at each time and therefore more efficiency from the plant. On the old basis, the men who basically work a 39-hour week, were actually working sufficient hours to be paid 88.3 hours of wages per man and that is an increase over their basic salary of 127%. Under the new system that we proposed this was going to be cut down but they were going to get a 60% increase over their basic salary. But the men who, and I am not ashamed to say it, I feel to some extent do not fully appreciate the situation as it stands and who seem to think that if they hold out for a period of time Government is going to give way to them, and in this they are very much mistaken, and who seem to think that Government has got the money up its sleeve and can produce it as long as the men decide to be tough enough to hold out for a period of time. The men said: "No, we must either work our 127% overtime or we will not work any overtime at all". This of course is their privilege. You cannot force a man to work overtime. Government says: "Well, if that is your position, then we must accept that you will only work the 39 hour a week and we will have to see what we can do to live with it". Government obviously considered that when the men started to get the shorter wage packet, they might re-consider the situation. But, of course, the difficulties in the method under which Government pay their workers is that they pay almost two weeks in arrear so that for the first 14 days they do not get a short wage packet and the impact does not hit them very much. Whereas, of course, the fact that they are working shorter hours hits Government immediately. And in the working shorter hours and not working on Saturdays and Sundays under their 39-hour schedule, this meant that there was nobody available even to open the gates of the refuse destructor site so that refuse could actually be taken inside the site and put in its proper place. Unfortunately, certain people started to dump the refuse outside the site and this is something that I would like to deprecate, those traders who for reasons best known to themselves have no public spirit whatsoever. One of them actually went there and dumped over 20 pallets, large wooden pallets outside the gates on a Saturday afternoon because he just thought why the hell should he bother to try and keep the stuff in his own area and leave it until the Monday when he could have taken it down and put it inside the site. This was part of the reason why the road was

cluttered up with rubbish out into Devil's Tower Road at week-ends. The men, as I said, had refused the 66% offer of overtime and as it is Government's attitude as far as possible to negotiate with the men through their union representatives, a second suggestion was put forward. A suggestion was put forward that if the men only wished to work 39 hours this would be acceptable to Government but Government would put in two shifts of 39 hours and this would give adequate burning time, in fact, even more than was necessary. This offer was rejected but not fully rejected. Two shifts were considered acceptable on condition that each shift worked 48 hours. I cannot understand how a man in one breath rejects any overtime, 66 hours, and says he prefers to work 39 hours and then suddenly when a new idea comes up, he says: "Ah, yes, we will accept this new idea on condition that we work X number of hours of overtime". Either you say no overtime or you accept the overtime that is offered.

HON A J HAYNES:

On a point of clarification. When the return offer of 48 hours was made in respect of both shifts, was this the return offer or the counter offer on the part of the union representative or directly from the men at the refuse destructor?

HON M K FEATHERSTONE:

At all times up to the moment the offers have been negotiated through the union representative. One of the things, of course, that Government had seen as a good thing in the two shifts is that it would create a number of extra jobs and this would alleviate, albeit in a small measure, but it would alleviate some of the unemployment. But, as I say, the offer came back saying that they would only work on a 48-hour shift basis and this would give altogether 98 hours far in excess of the need, we would only be paying money for people to be really around and doing nothing and Government could not accept that. Government did have another look at the overtime offer that they were willing to make to see if some small improvement could be done again on the basis of more efficiency of the plant and a better system with slightly longer working hours and therefore more efficiency from the plant was proposed and put to the men but once again this offer was refused. In this instance, the amount of overtime would have been about 75%. That is the position today. I have made it abundantly clear to union representatives that this Government does not subscribe to the policy of privatisation but if we are to run a public sector, we have to be as efficient as a private company would be and we cannot work along lines which are inefficient. The position that the Government is getting forced to is to put in a second shift irrespective of whether the men and the unions wish to go along with it or not. We would have to impose it unilaterally sooner or later if no agreement can be reached. But in so

doing we may get a reaction from the men who may decide to take full industrial action and we will be for some period of time in a worse situation than we are today. The cure may bring with it a considerable amount of uncomfotableness although it will be a cure, I think, in the long run. I do not think my judgement on that will be wrong. I would hope that if Government take these stronger measures as we are being pressed to do, the Opposition will be the first to support Government should there be any, as happens frequently, silly letters in the press from people deploring the situation because it has got even worse than it was beforehand. The second section were the sweepers. The sweepers were doing a fairly high measure of overtime and this was cut out. I agree that perhaps the cuts were too drastic and I agree that perhaps some measure of overtime might be possible within the financial strictures we have. But Government is not in the mood to offer this overtime until we get from the sweepers, as I said the other day, a decent day's work for a decent day's pay because it seems very clear to Government that the sweepers, whether backed by the union or not, are doing a policy of going slow and being, as I said before, bloody minded. I have seen a little improvement in the sweeping in the last day or so but Government is now instituting a policy, I believe today eleven letters have been sent to sweepers who are not pulling their weight giving them an initial warning. The next stage will be that they are put on a charge, the following stage is that they have a second charge against them and the next stage they are dismissed. And if this has to go right down to the final end Government is quite willing to go that far.

HON MAJOR R J PELIZA:

Would he say what the overtime was when the reduction, as he said, could have been drastic?

HON M K FEATHERSTONE:

The sweepers were doing a 39-hour week and not all sweepers but a number of sweepers, and they were rotating it between them, were getting a measure of about 75% to 80% overtime. There is nothing at the moment. I have had it put to me, and with fair reason, that if this amount of overtime was removed then the amount of sweeping that they could do should be reduced by the same amount. If, for example, they were working 7 days a week, actually they were not all working 7 on average it might have been about 6½ days, then on a five-day week one should reduce the amount of work that would be produced by a proportional rate. This would be acceptable I would think as a basis for discussion but when you are only getting 20% of what you should get then it definitely seems that somebody is being bloody minded. But, anyway, to turn to the other group. These were the lorries who went round to collect the accumulation in the streets and although their overtime was not cut in the slightest, they determined not to

work more than the 39 hour basic week out of solidarity with the sweepers. They were offered their overtime, it was never cut, but they said that they were going to only work 39 and if other people had to suffer overtime cuts then they would take it on themselves not to work overtime either. I agree this does not present, leaving the amount of rubbish in the street that one sees, a very nice tourist image but I feel some of those tourists who so glibly write to the newspapers, should have looked around London two or three years ago when you could not move in Trafalgar Square, and you could not move in Leicester Square for black bags and rubbish in all directions. You had to walk in the road because the pavement was full of rubbish. Perhaps people in glass houses should not be quite so quick to throw stones.

HON A J HAYNES:

But this does not make it right.

HON M K FEATHERSTONE:

I am not saying that two wrongs make a right, I am just saying that it is very easy for somebody when they are overseas to write a letter but sometimes in their own towns they suffer from the same situation. Of course there is a very old adage that prevention is better than cure. As I have said before we in Gibraltar are a particularly dirty lot. We throw our rubbish indiscriminately in the streets. We put our rubbish indiscriminately in the streets. I think the Honourable Mr Scott if he cares to look just outside the Post Office, will see that there has been a piece of metal laying there for the last 10 days which somebody has dumped there. There is an area next to my house, just outside the fire escape from the Montarik Hotel, which is continually cluttered up with rubbish. The other day somebody put 6 empty paint pots there. It seems to be the general attitude of everybody in Gibraltar if you have something you do not want chuck it in the street. I do not think education at the schools is going to do all that good because education starts in the home and if the child sees the parent's attitude: "I have got to get rid of this old mattress, well, I will stick it out in the street and hope that sooner or later somebody will take it away", if that is what they see in the home life, well, they are going to do the same when they grow up. Our Service friends are equally responsible because it is not the average Gibraltarian who leaves beer bottles in all the streets and perhaps the Service element in Gibraltar might also take it to heart that we would like to have a clean city and might tell their soldiers and sailors that beer bottles should not be dumped in the gutter indiscriminately and in many instances thrown in the gutter so that they break. The same goes with all those people who seem to eat an inordinate amount of potato crisps. If you go down on a Sunday the street seems to be absolutely full of potato crisps but if you look around you will see, as I have said, we are a

dirty lot. I have not seen under normal circumstances where somebody has to throw a whole newspaper into the street and yet I see it in Gibraltar in recent days. Of course we have litter laws and we would hope that the police would be more active in prosecuting. I have spoken to the Commissioner and I have asked him in the forthcoming weeks to intensify the campaign against people who throw litter but he has countered with the point that they have taken a number of people up on litter offences and they feel very disheartened when these people get to court and they get off either with a caution or with a very small fine or even sometimes with the case being dismissed even though the person has pleaded guilty. It is not my position to tell the courts what to do but I would hope that our Justices of the Peace and our Magistrates would consider seriously whether some measure of the stick, because the carrot has not worked, some measure of the stick may not be conducive to helping people to realise their civic responsibilities. Singapore did it. Singapore was one of the dirtiest places in Asia and today it is one of the cleanest and they did it by absolute use of the stick. I do not think we can be so draconian but perhaps a bit of more effort from the police and perhaps more support from the magistrates might help the whole situation. The Honourable Mr Scott did mention that the share of the cake must be as wide as possible. Government subscribes to this. What we have got to get is that if this policy is going to be done and there are a number of areas where Government is considering it might be a possibility, the men appreciate that there is a thick cake to be shared, it is not a case of saying let us have a twice as large cake which we will then share with twice as many people. The cake is limited. This has got to be learned by everybody in Gibraltar, especially those in Government employment. One cannot continually be asking for more and more because the money is just not there. I think I have shown that Government is getting, after being very tolerant, into a situation in which they are quite ready to act with resolution. But as I have said before the situation once one starts to be resolute to the extent that one says: "You do this or else" may eventually get worse instead of better. If we get to the stage that we put 10 sweepers on a charge and the resulting disciplinary action is that they are suspended from work for 4 days, that will be 4 days the streets are not swept. You are having your resolution but your cure is going to be for the time being such that it is going to be a little more difficult. The Public Works Enquiry Report mentioned skips. We have put skips around the streets, I think you saw them in Main Street for a certain time. One of the immediate results from the men was that they would black the skips. They decided that they would not use them. Also we have the question of the special road sweeping machine that we purchased and which Government feels must be used as flexibly as possible to assist in cleaning up any area where the man is not able to do it adequately himself or where conditions are such that there is an extra amount of cleaning to be done and he can be helped out. There is, in my opinion, too much

attitude on the part of the men that a certain situation has been done for the last 10 years and therefore no change to that situation can be made under any circumstances. If we live in a modern world we have to use modern equipment and modern machinery. We are not using this machinery to cut out any jobs whatsoever, we are doing it actually to help people and even in the question of this piece of equipment three extra jobs were created because it had to have a driver and two men to work it. It seems to me a short sighted policy to say that this piece of equipment could not be used. And to black equipment and to black in general is to my mind and to my way of thinking perhaps one of the most pernicious weapons that a union can use because all they do is create harm to their employer whereas at the end of the week the men still hold out their hands and expect the same amount of pay to be put into it. The question of the health hazard. Of course, if you have a lot of rubbish lying around a health hazard can become a possibility. But as I said the other day, the majority of the rubbish in the street at the moment is paper and does not create a very great health hazard. But of course there are instances where the health hazard can be caused like the person who yesterday dumped two black bags of household rubbish into one of the little garden areas just by the Cathedral so that shows that certain people do not seem to have any sense whatsoever. It may be done on purpose, who knows. Government of course wants a clean, tidy Gibraltar. Government, as I said, has been very tolerant and has made very reasonable offers to the men but there seems to be an attitude, and it does not occur in the collection of refuse department, there seems to be an attitude on the part of some of the men that under every circumstance in the future they must get exactly the same wages as they have had in the past. This, I am afraid, cannot be in the climate of today's financial restrictions and I would suggest to the union leaders that they explain very carefully to the men that money is limited, that it is the policy of Government to try as far as possible to give what overtime is essential but not what is unessential, to use equipment to the best possible economic use of that equipment and to see that we get a reasonably fair return for what is in certain people's minds a very comfortable type of employment. Government, of course, want a clean and tidy Gibraltar, we are working to that end, we will approach the matter now with less tolerance, perhaps somewhat the Opposition calls resolution, and let us hope that eventually the situation will return to more normality but I will make once again the plea that the general public cooperate by not considering the streets to be a general dustbin for everything that they feel they have to get out of their house and dump as such. Thank you, Sir.

HON A T LODDO:

Mr Speaker, I think we can all agree that Gibraltar today is possibly as dirty as it was at the height of the general strike

and we also ask ourselves why should this be the case when we are told that there is no industrial action, there is not even an industrial dispute, there is certainly not a strike, no blacking. It is now called industrial disagreement and the nicer we make it sound the less offensive the rubbish becomes. Mr Speaker, I think this is about the third time since I have been sitting in this House, that we have had problems with refuse and refuse collection. I hate to equate the refuse collecting with the electricity situation but it strikes me that there is something wrong in the refuse collecting system if this is the third time in three years. During question time and again now during his intervention, the Honourable Mr Featherstone said that he expects the Opposition to support the Government in its actions and it probably will, but let there be no doubt about it, it is the Government who has to govern. The action the Government takes must be precisely because it is the Government not then turn around and say: "Oh, we were forced to take this action by Opposition pressure". If the Government takes action it is because it is the Government and obviously being in possession of all the facts it should take a decision on what action it is going to take. However, what the Government cannot do is to sit tight, as has happened before on several occasions, to sit tight and wait till the tide of public opinion becomes such that they capitulate with no explanations given. I believe, Mr Speaker, that if there is no need for a problem to arise you should not let it arise and grow. If the union is right, God knows there is enough machinery for negotiation nowadays, if the union is right, then it is right and you give in gracefully and that is the end of the matter. What you cannot do is allow the people to suffer because you are wrong and at the end give in, or allow people to suffer because you are right and in the end give in again. Mr Speaker, we are in Gibraltar amongst the most highly taxed people in Europe and we have a right to expect a clean Gibraltar, constant electricity and water. We have a right to expect it, we pay for it, God knows. And the people of Gibraltar are getting fed up. They do not want to know whether it is being called a dispute or a disagreement or what have you. They are fed up and they want to see action taken. On the question of the danger to health, what apparently seems to escape everybody is that if we do have an epidemic it is not going to respect anybody. It is not going to just touch a few. It is going to go through the whole City, workers and management alike. Nobody will be immune and this risk I think it getting bigger far quicker than we care to admit. We are dumping the rubbish down the chute which is in turn brought round to the beach, which is not being cleaned as it should be, where the people are now congregating in ever increasing numbers. The risk to health is getting bigger a lot faster than we realise and as to the effects that all this rubbish is having on tourism, Mr Speaker, well, I will leave that up to my Honourable and Gallant Colleague to expand on. I remember last year, Mr Speaker, that the Government was very enthusiastic about these new litter bins that were going up all over Gibraltar with the

advertising on them. I wonder if the advertisers are now so happy that they have put their adverts on bins which are full to overflowing most of the time. I realise that perhaps in Gibraltar we are great crisp eaters but, Mr Speaker, on a Sunday morning, on a Saturday morning, if you walk up Main Street you will find the litter bins choked up so that unless you are extremely civic minded and you care to fold up your empty crisp packet and put it in your pocket, the people are just going to throw it on the floor. I have actually seen people going up with a packet or a Coca-Cola tin and just not being able to put it in the litter bin because it rolled off. Mr Speaker, all these litter bins are very good but they need to be emptied. All our laws are very good but they need to be enforced. I remember, Mr Speaker, when we did not have these little road sweeping vehicles, two of which we had had passed on to better life. We now have a big one which is being blacked. I remember when we did not have any of these things and Gibraltar was a lot cleaner. I also remember when we had a lorry that used to go around and clean out all the drains. I do not know whether we have still got it but it is not being used. I remember when two men used to go around with a wheelbarrow, one of them with a wheelbarrow and the other one with a little spoon effort on a long pole and the drains were emptied out. I do not see them now. Perhaps they are somewhere but I do not see them. The fact of the matter is that when we get a downpour we get flooding.

HON M K FEATHERSTONE:

We have had downpours in the last six months or so and I have not seen this evidence of flooding and I can assure him that the people who clean the drains still do their work just as efficiently as before.

HON A T LODDO:

Mr Speaker, I would advise the Minister to stand at the corner of George's Lane the next time there is a downpour and he will see flooding. Or to walk down Fish Market Road and he will see flooding. But, Mr Speaker, I also remember streets being flushed frequently. That is a thing of the past. The question which I would like answered is, is it because there are less people employed in the cleansing of Gibraltar that this has happened? I am not concerned about the wages. Wages must go up with inflation and at this moment I am not even concerned with the overtime. Gibraltar has not grown any bigger but it has certainly grown a lot dirtier and if the staff employed in the cleansing has gone down then perhaps it means that we need more people employed. But if the staff is the same, or the staff is the same, or the staff is greater, then what can the possible excuse be? Mr Speaker, I would agree that in times of economic stress we should tighten our belts and we should start by cutting down on non-essential overtime but I would

think that possibly one of the essential things from our pure health point of view let alone the tourist point of view, is the cleanliness of our city. Having said that, I would also say that as a socialist, there was a time when I was considered practically a red now I am considered too much of a conservative, I still like to consider myself as a socialist. As a socialist, Mr Speaker, I cannot honestly reconcile 127% overtime. I would much rather 2 or 3 shifts. If it can be proved that there is work for 127% overtime, if it can be proved, I would say then we need more people employed particularly in our high unemployment situation we are facing in Gibraltar today. Mr Speaker, I will not bore the House any longer. I would just like to say that I support this motion fully and I am sure that this is a motion which will carry the majority of the House's support.

HON J BOSSANO:

Mr Speaker, I support the motion. However, I will be moving a slight amendment. Let me say that it seems to me that the Minister for Public Works has put an interpretation on what he is being asked to do when he is being asked to act with resolution which I didn't hear the Mover of the motion put. It may be that he put it before, because I was out seeing a gentleman from the Foreign Office, he might have said it at the beginning, I don't know whether he did or not but certainly it seemed to me that the Minister was saying that he was being pressed to take a tougher line with the workforce and I don't know whether the motion is doing that because it doesn't say that.

HON W T SCOTT:

If the Honourable Member will give way. It was commensurate with what the Minister was saying yesterday in answer to a number of questions we had been posing on the determination of Government to act in a certain manner.

HON J BOSSANO:

I think the Minister has been less than fair to the House of Assembly in his presentation of the facts and implicit in his analysis is a justification as if it was obvious to all of us that the original decision was correct because the situation that we find today is a situation provoked by Government. It was the Government who has created the situation we have.

HON MAJOR F J DELLIPIANI:

And why not?

HON J BOSSANO:

Well, Mr Speaker, perhaps the Honourable Member will tell me whether it is true or not that it is the Government that came

along on the 28th March and told the workforce that as from the 31st March, three days later, they were finishing at lunchtime on Thursday and they could come back to work on Tuesday and what did he expect to find on Tuesday except four and a half days of unswept Gibraltar? Did that happen or didn't it happen, is that a fact?

HON M K FEATHERSTONE:

I think that is the information given to you by the IRO, not by the Government as such.

HON J BOSSANO:

I know it is the information given by the IRO, Mr Speaker, Ministers do not negotiate that is what they have an IRO for. If they were going to handle the negotiations with their employees themselves they would not need to have an Industrial Relations Office but I imagine that that was the information communicated officially to the Union through the Government's representative because that was the brief he was given and the brief he was given to put to the workforce, the workforce were not told: "Would you like to come to work or not?" The workers were told by the Union on Tuesday the 28th March: "The Government has decided it cannot afford to pay you overtime, no doubt they will explain it in the House of Assembly when the time comes", because the decision was taken before the House had voted the estimates, it was before the House met on the budget that the decision was taken and implemented.

HON M K FEATHERSTONE:

If the Honourable Member will give way. Government intimated the facts to the IRO at least ten days before he actually intimated it to yourselves. Perhaps the IRO was at fault, perhaps he couldn't get hold of the Union representatives, I don't know what the situation was.

HON J BOSSANO:

No, Mr Speaker, I can assure the Honourable Member that the IRO had hinted to the Union that they would have to have a formal meeting because the Government was considering cutting overtime, he didn't say when, he didn't say where and he didn't say by how much. He said that there would have to be a meeting. He was asked on the Monday whether he was ready to put whatever the brief was and he said no, he wasn't ready on the Monday, he would have to clear it and the meeting was fixed for the Tuesday afternoon and this was put to the workforce on the Tuesday, on the same day, and the answer was brought back on the Wednesday and then on the Wednesday the Government then made an offer to pay people to come in on the Saturday of that long week-end, exclusively for that Saturday, and then they would go to a five-day week from the following week and of

course the Union didn't take any recommendation for or against, it was put to the men and the men logically responded since out of the twenty-four sweepers we have got twenty immigrants that if they were finishing on Thursday morning from work and they were going home to visit their families in Morocco they could hardly be expected to come back on the Friday, work on the Saturday, go back on the Sunday, come back on the Monday and start working on the Tuesday, it would cost them more in fares than they would earn on the Saturday so that was a non-starter, commonsense should have told the Government that that was a non-starter. But that was put to the men without telling them accept it or reject it, it was left for them to decide and the Government knows that the Union's position has been that the Union does not dispute the Government's right to withdraw overtime unless there is an agreement which specifies a certain level of overtime in which case it can only be changed by either giving notice on one side or the other that the agreement is going to be discontinued or by re-negotiating the agreement but in a case like the road sweepers where there has been no formal agreement, there has been an agreed pattern of working, on Sundays half the workforce used to come in and that was agreed and that was a reduction introduced several years ago, the situation is that the Government has withdrawn the overtime and put people on 39 hours a week. We are, I think, not just here to consider whether the Government should take tougher lines or not with the workforce, I think we have got also an obligation here to consider what justification there was for the original decision. What is this crisis, Mr Speaker, that we are talking about that the Government faces? Certainly I cannot expect Members on this side of the House to support the Government because the Honourable Mr Restano said in the budget session that our reserves were very healthy and that £8.5m was enough to deal with the economic problems facing Gibraltar. Are we talking about reducing the cost of road sweeping by millions of pounds, is that what we are talking about? No, what are we talking about? We are talking about a situation and we have to go back to 1979. In 1979, Mr Speaker, road sweeping cost £196,000 out of a budget of the Public Works of £3.8m and out of the total budget of £28.75m. It represented then 5.1% of the expenditure of the Public Works and 0.68% of the total Government expenditure. Last year, in 1982/83, the Public Works budget had doubled from £3.8m to £7.7m but the road sweeping had not doubled. In relation to the Public Works vote it had gone down from 5.1% to 3.57% and in relation to total expenditure it had gone down from 0.68% to 0.58% so it isn't that here we have got a section of Government which is costing more and more money every year and you have got to maintain it, that is not true. The cost of road sweeping has gone up but has gone up by less (a) than Government expenditure as a whole and (b) than the expenditure of Public Works. Why has it been selected, because it is unnecessary overtime? Well, if it is unnecessary overtime I would like the Honourable Minister for Economic Development to

explain to me why in 1980 he made a statement in this House saying that no social overtime was being worked any more, that it was all essential overtime that was being worked, and in 1979 the Chief Minister announced the setting up of a Committee to look into details in all areas of Government expenditure to eliminate unnecessary overtime under the Chairmanship of the Minister for Economic Development and in 1981 he announced that as a result of the efficient working of this Committee and of the elimination of unnecessary overtime the economy of Gibraltar was in such a healthy state that he was proud to introduce a budget of such a prosperous and wealthy Gibraltar two years ago. In 1979, when the overtime was not cut for road sweepers, we were supposed to be with only three days' money in reserve, the House was introduced to a draft estimate that said that we had in reserve £300,000 and that if we took into account unpaid bills we had a minus reserve, not only did we have a running deficit, we had no reserve at all, nothing left, and yet road sweepers overtime was maintained in that situation because it was considered necessary and essential and it was kept and I think the Government is wrong to have taken the overtime away from the road sweepers, it is an area which costs very little money in relation to its impact and there are many other areas and I am not prepared to go along and tell road sweepers: "We all want to tighten our belts" because I have to tell them that this Government has employed fourteen extra policemen without the approval of the funds from this House and one policeman alone costs more than the overtime of the twenty-four road sweepers so I cannot accept that argument.

HON CHIEF MINISTER:

I expect the road sweepers to work for the 39 hours for which they are paid, Mr Speaker, but they are not doing it.

HON J BOSSANO:

Well, if they are not doing it then we have to start examining exactly who is doing it beginning from the top down, that is the answer.

HON CHIEF MINISTER:

The answer is a picture in the Chronicle where one of the barrows was stuck away for two days, that is a better picture than all the words that you can say about whether they are carrying out their duties or not.

HON J BOSSANO:

Mr Speaker, if the Honourable Member is telling me that Gibraltar can be as well swept and as clean with three thousand less man hours, which is what has already been lost from the removal of overtime since the beginning of April, then he is telling me that he knows that for the last ten years he has been paying people three thousand man hours every two months for doing nothing.

HON CHIEF MINISTER:

If the Honourable Member will give way just once more and I will not interrupt him any more but this is very important. If the men had wanted to prove that the amount of time given was not enough they should have done a good days work and whatever remained could have been a better judgement than to have blacked it all or go-slow and do nothing. I think the attitude is wrong and the attitude, unfortunately, has not been corrected from the top, the attitude of people hiding in order not to do their work, not to be seen, not doing the work is wrong and immoral and I am sure that it cannot be condoned by the Honourable Member. I am not saying that he is responsible for it but there is a lack all along the line of attempts to try and put some element of sense into this because the Government has been flexible and would have been flexible in settlements subsequently and the men have refused to in any way compromise on a basis on which they could get overtime and we could get Gibraltar clean.

HON J BOSSANO:

Mr Speaker, the man may be working less in the 39 hours than they worked before, I am not in a position to judge that, but what I will tell the Government is that they were wrong in their original decision to cut the overtime of road sweepers and put them on a 39-hour week, that decision was a wrong one, it cannot be substantiated and it cannot be defended. The amount of money that they are saving is peanuts, this section can be seen to have kept their costs below the average rate of increase over the last four years by the rest of Government. The cost of cleansing and the cost of disposal as a proportion of the Public Works or as a proportion of total expenditure has gone down not up so it isn't that there have to be cutbacks because they are growing too fast. In his budget statement the Chief Minister said that alright, there had been an elimination of unnecessary overtime but that it had started creeping back. This is not true in this case because in fact their hours have been unchanged since 1979 and why they were not cut in 1979 when the Minister was charged with a specific responsibility of eliminating unnecessary overtime and when the Government was saying that it was in a critical situation with £300,000 in reserves? If it was not thought necessary to do it then why is it necessary now? The Government cannot have it both ways, it cannot say today that it is eliminating the overtime because things are tight and you must not waste money, without at the same time saying that they have been wasting money all the time. If they are eliminating the waste of money today then it means that they are admitting that they have been wasting money since 1979 and that when they came to the House and said the unnecessary overtime has now disappeared it wasn't true, it had not disappeared. I think the situation is, Mr Speaker, the same as it was in 1972 when in 1972 the

Government said there was no money to pay 40p and in fact in retrospect the reserves of the year 1971/72 were the highest in Gibraltar's history before or since then if we adjust for inflation and we had a one-week general strike and we still had after the one-week general strike huge reserves. I think the Government in looking to cutting public expenditure has just put a pen through different votes without looking at the consequences and quite frankly I cannot for the life of me understand it, the thing is totally disproportionate. What else can they expect if people stop sweeping on Friday that the streets should be dirty on Monday and on Tuesday, dirtier than normal? They may say: "People are not pulling their weight and by Wednesday it should be cleared up". Then they are telling the House that if the resolute approach is to ensure that by Wednesday every week that the streets are clean because that is all they can ensure, if people stop on Friday, they are accepting a dirty Gibraltar Monday and Tuesday and they are telling the House: "Right, what we are going to do is take action against the sweepers to make sure they do more work in the 39 hours which will ensure that the backlog every week is cleared by Wednesday", but certainly not by Monday morning or Tuesday, that will continue dirty resolute approach or no resolute approach unless the money is put back where it was cut out.

HON CHIEF MINISTER:

Rubbish.

HON J BOSSANO:

Rubbish, precisely, that is what we are talking about, Mr Speaker, too much of it, too much rubbish, that is the problem.

MR SPEAKER:

Has the Honourable Member long to go yet because I will be recessing within the next two minutes as it is now four minutes to one.

HON J BOSSANO:

People are perfectly entitled not to work overtime at the beck and call of their employers if their employers are not prepared to give it on a consistent basis and I support entirely and I applaud the decision of the employees who are attending this House in deciding that they will work a 39-hour week, Mr Speaker, I am 100% with them and I am prepared to come out in sympathy. What I will do, Mr Speaker, is stop at this point and carry on later on with the question of the disposal, I have dealt with the street sweepers, and then I will move my amendment.

The House recessed at 12.55 pm.

The House resumed at 3.15 pm.

HON J BOSSANO:

Mr Speaker, I said that I would continue with my contribution by explaining the situation regarding refuse disposal, having dealt with the degree of saving and the implications of the savings brought about by the cut of overtime in the cleansing. In the case of refuse disposal, again the figures do not show this to have been a department whose cost has escalated beyond the level that has been standard in the Government. In the case of the refuse disposal in 1979/80, again at the time when the Government was taking a very close scrutiny of all public expenditure because the reserves were very low, the disposal of refuse represented 3.98% of the Public Works budget and 0.53% of the total budget. In 1982/83 the cost of refuse disposal was 2.52% of the Public Works budget and 0.41% of the total budget showing a decline in proportion in respect of both which means that effectively the increased cost which in that period had gone up from £152,000 to £194,000 was percentage-wise a smaller increase than in the Public Works or in the Government as a whole. There seems to be no specific reason why these two departments should require to be cut back more than others. It seems to me, therefore, that there are only two possible interpretations. Either the Government decided somehow to chop off so much percent of almost every head of expenditure irrespective or without seriously working out the implications because it seems incredible to me that we should be talking about saving a few thousand pounds in an area and at the same time, for example, spending £½ million to attract tourists to Gibraltar only to present them with a Gibraltar which they will never want to come back again to. So therefore, Mr Speaker, I am sure the Minister being as concerned as he is would be quite happy to use £5,000 or £6,000 of his vote to ensure that the streets are cleaned every week-end.

HON H J ZAMMITT:

Two shifts.

HON J BOSSANO:

No, Mr Speaker, the two shifts which the Honourable Member has referred to now and which was put to the men as one of the offers, let us go back to the refuse disposal. The incinerator was operating 71 hours. The Government must know that there was always a backlog of stuff even when it was running for 71 hours, I mean, 71 hours was not enough and has never been enough, there has always been stuff put down the chute and there have always been piles of stuff that has had to be burned outside. There has always been an accumulation there even with 71 hours but what they came with initially was to use the incinerator of 60½ hours and then what they came to secondly was to use the incinerator increasing the overtime 65 hours and the two shifts would have meant using the incinerator 78 hours.

Does the Government know how many hours they need to use the incinerator? The introduction of the two-shift system which as the Minister has said was not entirely rejected, that is, the men said they were prepared to work shift work with a 39-hour week meant a very big drop in earnings and the Government has got to accept that it is no good trying to suggest that the people there are very greedy because they are working 71 hours because they never asked to work 71 hours, there isn't a union agreement saying people must work 71 hours, there is a union agreement saying people must work 39 hours. If you have got people used to working 71 hours for years and you suddenly come along and you tell them: "Right, you are going to take a £50 out in your earnings from this week", well, the reaction can only be the reaction that the Government got, it was to be anticipated and I cannot understand how they didn't anticipate it. I honestly think that the only way forward is to go back to square one if the Government genuinely wants to find a solution to this problem other than by having a confrontation which I don't think is in the Government's interest, I don't think it is in the interest of the workers and I don't think it is in Gibraltar's interest. I can assure the Government, I am not trying to make a censure of this, but I can assure the Government that if they go ahead on the basis of taking a tough line and in interpreting this motion as pressure for them to take a tough line and in interpreting this motion as pressure for them to take a tough line they will find themselves with a tough response, that is bound to happen, and then we will see at the end of the day if we finish up with a general strike whether we don't find the problem increased at a magnitude where it will not be possible then to find a painless solution. These things, Mr Speaker, from my experience, the longer they go on the more hardened attitudes get on both sides, the more difficult it is to find any sort of compromise solution. I am, therefore, Mr Speaker, moving an amendment to the motion which is to delete none of the words that are there, to delete the fullstop at the end of the motion and to add the following words: "by, (a) ensuring the observance of the law on litter offences; (b) restoring the public expenditure cuts in respect of cleansing and refuse disposal; (c) entering into negotiations with representatives of its workforce to ensure that an efficient service is provided in this area". In moving this amendment, Mr Speaker, I am putting an interpretation on what the House means when it is asking the Government to act with resolution in this matter, that is, to take what I consider to be positive measures to meet three clear deficiencies, shall we say, (1) is the fact that people are throwing litter with impunity, (2) that the money has got to be provided. There is no question that the streets are going to be swept on Monday if people are not working Saturday and Sunday and that they can be expected to be clean on Monday and Tuesday even if it is true that people are working less well than they were before and even if the Government were to succeed in frightening them by threatening letters that they

should work more, at the end of the day the fact remains that if they finish work on Friday and they don't come back until Monday, on Monday the streets will be dirty and on Tuesday they will be dirty and they will start getting cleaner on Wednesday and therefore that requires more money but we are talking about very small amounts of money, Mr Speaker, in the overall context of the money the Government is spending. I think that is an important point that the House should understand that we are not talking here about huge increases because there are very few people involved, there are only six people in the refuse destructor and twenty-four sweepers in the whole of Gibraltar and it is an area that has never been easy to get labour for. I have said that it was the Government itself that decided the number of hours that people work in the incinerator and the level of earnings because it was never negotiated with the union but I am convinced in my own mind that they would have found it extremely difficult to attract anybody to what is a very undesirable job if all that people were going to be paid was the same as they could earn doing any other job and getting a Band 2 or a Band 4 rate of pay. There are areas like the sewers and refuse collection and refuse disposal which are unpleasant jobs that Gibraltarians don't want to do and it is an area that we depend mostly on immigrant workers even when earnings were high. If we are now talking about people getting a flat wage which means a take home pay of £60, then I can assure the Government that the unemployment would have to reach very much greater levels before Gibraltarians are prepared to tackle those sort of jobs for a take home pay of £60 from my knowledge of people's attitudes and that attitude is still there. I have many people who come to me to see if I can help them to talk to employers to offer them employment and they are still very selective. They might have been on the dole for six months but they are still very choosy about what they will do and what they will not do, there are certain things that are for the foreigners and not for locals and that attitude is still there in Gibraltar and I think that has been one of the reasons why certain areas have very high earnings because it was the only way to attract labour into those areas. The last part of the motion, Mr Speaker, which talks about entering into negotiations with representatives of the workforce, I think quite frankly that the Government failed in this one in taking people into account and perhaps they felt that they had a deadline to meet with the budget coming up, I don't know what it was, but I can tell the Government that in my judgement there has been a record of relatively good industrial relations since the major dispute of 1974/78 where union representatives at the shop floor, shop stewards, have got used to doing things by negotiation rather than by industrial action and I would certainly not recommend to the Government that they should try and go back to the approach that we had in the years of 1974/78 when it was a question of nobody talking to nobody else. I commend the amendment to the House, Mr Speaker.

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

HON CHIEF MINISTER:

Mr Speaker, on the amendment. I want to speak on the motion later on in general terms but strictly on the amendment, we cannot accept it in respect of (b) because there is a lot to be said about the question of expenditure in the general context and I don't think that percentages in respect of votes and ups and downs in itself makes any sense in general without examining the different areas. Whether they were wrong or they were right in the way in which the cuts were made is another matter and I would be prepared to accept because in fact this is still the case, that there are attempts being made to try to come to terms about this matter, we could not be parties to an amendment that would tell us to restore the public expenditure cuts ourselves but we would be prepared to agree to the other two and in that way we could vote to the whole of the motion otherwise we may even have to vote against the first part of the motion because a different interpretation has been given by the mover to the interpretation given by the Honourable Mr Loddo who spoke in favour of the motion. Different representations have been made and I don't want any misunderstanding about that. I will explain the position of the Government generally on the dispute and on the motion but at this stage if the mover was minded to take off paragraph (b) and make (c) (b) we would be prepared to go along with that but certainly we will not be prepared to have our hands completely tied as to future negotiations.

MR SPEAKER:

The only manner in which it can be done is to move an amendment to the amendment.

HON CHIEF MINISTER:

No, because either we find a reasonable consensus otherwise it is words over words and in this matter the more words there are the less likely the settlement would be in the final analysis.

HON W T SCOTT:

Mr Speaker, we find this rather constricting in the sense that we have assumed in our motion that "negotiations with representatives of its workforce to ensure that an efficient service is provided in this area", was a matter of course in any case, I don't think there is any reason to mention that. The observance of the law on litter offences I have already spoken on that whilst I moved the motion and on (b) restoring the public expenditure cuts in respect of cleansing and refuse

disposal', of course the point is very well made by the Chief Minister and in fact it is reflected in the estimates for this year and, surely, if we were going to talk about the cuts, these estimates had been prepared obviously weeks if not months before the opportunity to have talked on the cuts on Head 20, Subheads 38, 39 and 40, because it is very evident there, that would have been the time to have talked about them and the reasons why. So I feel, Mr Speaker, we cannot agree with the amendment, we will be voting against it.

MR SPEAKER:

Any further contributors on the amendment? Mr Bossano, if you would like to reply.

HON J BOSSANO:

Mr Speaker, the amendment that I have moved seeks to define what the motion means by asking the Government to act with resolution in this matter and I have spelt out what I think the Government should do in the matter by leaving it unambiguous. If in fact the Government is urged in the original motion and what is meant by resolution is to take a leaf out of the policies of the Conservatives in the United Kingdom and to start threatening employees, then I would have no choice but to vote against the original motion. As far as I am concerned I opposed the budget as a whole and I opposed the cuts in public expenditure not just on this particular Head but on all of them so therefore what I had to say then was said in the context of the overall budget. What I am saying here is that there is no way

HON P J ISCLA:

I don't think the Honourable Member spoke on the expenditure budget, if I recall correctly.

HON J BOSSANO:

Well, what I had to say then I said at the budget session, Mr Speaker, and that was that I opposed the whole of the budget because I opposed the philosophy behind it, that the economic ills of Gibraltar could be cured by cutting public expenditure and I voted against the Finance Bill and I voted against the Appropriation Bill.

HON W T SCOTT:

If the Honourable Member will give way. He is referring to Committee level when he can ask questions and determine why a particular subhead has been raised or cut.

HON J BOSSANO:

And I am saying, Mr Speaker, that I was against the whole philosophy of the whole thing and therefore the particular Heads in the context of the budget as far as I was concerned was irrelevant. I am raising it in this context because there is no way, that is what I am telling the House, there is no way that the problem can be solved without money being provided, that is what I am saying. If the position of the House is that the amount of money that has been voted in the estimates which is the amount of money that has produced the elimination of overtime is the amount of money there is and there is no more money, then there is no solution and then we might as well forget the whole of the motion because whatever is passed here, it will be either a question of the Government being defeated by the workforce in a dispute or the workers being defeated by the employer in a dispute, it would be reduced to that.

HON CHIEF MINISTER:

Perhaps before the Honourable Member finishes he may give way. There is, of course, an element of discretion of how the expenditure cuts across the whole vote are made and how things can be done so it doesn't mean that the cuts are directly or rather these cuts arise out of those cuts but they need not necessarily be those. We may have more problems or less problems.

MR SPEAKER:

That is the reason why I have allowed the amendment because otherwise it would be tantamount to a revenue raising measure because otherwise in order to be able to give effect to the amendment you would have to raise more taxes.

HON CHIEF MINISTER:

That is not the case. In a big expenditure cut I don't know how the thing is spread out and we will look at it but in pursuance of the expenditure cuts made, the departments have brought out some ways in which to meet it, there may be other ways in which to meet it and therefore it doesn't mean that there cannot be money for that, it may well be that there may be less money for something else. The cuts have to be implemented so they are not directly related to this, particular dispute, that is what I am saying otherwise it would be an attempt to raise taxes.

HON J BOSSANO:

Mr Speaker, obviously I am going to vote in favour of my amendment and let everybody else vote against it.

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

The Hon J Bossano

The following Honourable Members voted against:

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 A T Loddo
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 R J Wallace

The following Honourable Members were absent from the Chamber:

The Hon D Hull
The Hon Major R J Peliza

The amendment was accordingly defeated.

MR SPEAKER:

The amendment is therefore defeated and the question originally moved by the Honourable Mr Scott is before the House and I will invite any Member who has not contributed to the original motion and who so wishes to speak to do so now.

HON CHIEF MINISTER:

Mr Speaker, I had a few things to say but unfortunately in the course of the intervention in the general motion by Mr Bossano he was kind enough to give way and I made some of the points and I don't want to repeat them. I did make the point and they are quite clear what they are and I don't want to repeat them. I would like to make some general observations in a more orderly way than was possible by intervening, trying to steer clear as much as possible from repeating it. It seems to me to some extent and I am sure that when the Honourable Member speaks here he speaks only as a Member of his party and not on behalf of the union and therefore I think we ought to make our minds quite clear though I know he can exercise a considerable amount of influence but I am speaking here to the House and not

to the union to which the Honourable Member belongs, let it be made quite clear, that is another media through which there is machinery in which the matter is done. But in general terms it seems to me somewhat hypocritical to say that there is no industrial dispute and at the same time a considerable number of men are encouraged, and I have evidence of this, are encouraged by some people, I am not making any accusations against the Honourable Member at all, but are encouraged by those immediately above them to go slow. to be difficult, not to do even a decent days work. I referred to the photograph of the barrow in an alleyway for two days which said much more than many words could say, and it is quite clear that the cuts that were made, whether they were made rightly or not we will talk about that in a minute, are being resisted by industrial action, not declared industrial action, it may be by the initiative of the men or whatever it is, it is quite clear that people are going slow and have been trying to embarrass the Government in connection with tourism, in connection with the outcry by not doing what they are now being paid to do, that is quite clear. Let me also say that there is a differing standard according to the places and to the people. I can speak of one or two areas which are as clean as ever and where the man has been doing the work, works as hard as he has ever worked and he will work. Fortunately or unfortunately this happens more when the people concerned are of an older age than the younger ones but certainly I can vouch for two or three districts where the people have been working despite pressures that they should not work as usual, have been working decently and properly. I am not condemning the whole of them but I do say that there are a few people that are trying deliberately in this way to further embarrass the Government in pursuance of the cuts. If the cards are wrong, if not enough time was given, if attempting to find a solution and so on can be done by normal industrial relations, then I am in favour of that and in fact I have given a directive to that extent and that is the policy of the Government and we do not want, and we are not ashamed to saying this again, we do not want unnecessary confrontation with the unions. Some people would very much like to throw us into that situation and then sit on the touchline and gloat. Well, we are not going to allow that to be done. I am sure that that was not the intention of the motion but it can reach that stage, and we are not going to allow that to happen. We may be doing things that the Union do not like but we will do it according to our conscience, we are not going to be pushed into doing things we do not think we ought to do. In that connection I would like to echo the words of Mr Bossano that industrial relations have been reasonably good. My God, anybody who reads any paper or looks at television or radio and so on, should appreciate the extent of industrial peace that there is in Gibraltar compared to what it has been in many other places. And if we have the occasional squabbles or the occasional difficulties with the unions, well, that is part of life, but

that does not in any way exempt the fact that people in the union, or rather perhaps even the people concerned themselves, have found encouragement in going slow to make the position of the Government worse. And let me say that at the same time whilst it does try to discredit the Government, it does not do any credit to unions itself as such. If the unions are concerned, as I am sure in the final analysis they must also be concerned as to their place in society and the extent to which people feel strongly about union action and so on. If the time that was given for people to be told about it was not enough, I think my Honourable Colleague has stated that as far as we are concerned we thought there were 10 days, the Honourable Member has cut it down to 2 or 3, that is something which has to be investigated in order that it will not happen again. But, be that as it may, that should be past history, we should start from scratch and we should tell the people what is meant and in fact there has been an attempt, and as the Honourable Member said in his intervention, various attempts have been made to find out workings and we hope that that will be possible, it is never too late in a dispute of this nature to come to reasonable terms if both parties have good faith. It is no use saying no to successive offers and waiting for more and carrying on. If that were the judgement of the attitude taken then the Government would have to react seriously whatever the consequences. That is something I do not like to say because it is no good whatever the consequences. If the consequences are serious it may be that the situation would worsen but it would not be any better for the unions than it is now. They might end in celebrating a pyrrhic victory but that would not bring them the money that they hope to get or at least near enough the money that they hope to get. I was saying before that it is no use referring the percentages to the old ones because there may be further increases in some areas for some reason or other and you cannot say that there has been a cut of a percentage across. Cuts were made in order to be able to balance the budget without extra taxation and to be able to cope with the reductions in taxation that were introduced in order to activate a little more the economy as I am sure it is doing in order to be able to present a reasonable budget and a budget that would give credit and would be expected to command the confidence of those to whom we have to go in order to raise funds to carry out works of a social nature. It is all one area of philosophy and in that respect cuts have got to be made. I agree that people who have been used to higher earnings and have their earnings drastically cut are shocked and do not have the time to adjust, I accept that, and if that has happened then it must not happen but so long as the aim is published and the matter is cleared. People should have notice of the changes, reasonable notice of the changes. People have commitments. I know somebody who very shortly some time after this came along, whom I know quite well, probably a very prominent union member but still a very good friend of mine. who came along and said he wanted to find

out whether he could get his gratuity and I said: "You are very young, you have been serving and you will get a pension". "Ah, but with this cut that has been imposed on me because I would like to work", and I am not going to say who it is - but anyhow, he would have worked the alternative offer - "I am found with hire purchase commitments which I cannot meet, and I would rather have my gratuity now, pay my commitments and start again". I said: "This would be very harmful to you, you would spoil your chances of getting your pension, you would spoil your chances of your retirement pension and, in fact, what you owe because you are too conscientious, what you owe in relation to the cuts can stand the test of a little time until things are put right and you get perhaps not all you are getting". I knew what was in the offer that was being made at the time. I appreciate that but then also labour must appreciate that the Government, as has been said so many times in the course of another debate, is elected to govern and has to do the things the way they think having regard to all the considerations that I have set out, in the way they think best. They must be the final arbiters whether that is going to provoke a general conflict. But to speak, and this is something that I really must resent, to speak of a dispute over cuts in a very small area as leading to a general strike, is in my view putting the matter completely out of context and I hope it is not intended to try and frighten us.

HON J BOSSANO:

I was not talking of a general strike arising out of cuts, I was talking about a general strike arising out of the indications from the Minister of Public Works that people will be given one or two warnings and then sacked and that he hoped the Opposition would support them because they were taking a tough line. That would lead to a general strike, yes.

HON CHIEF MINISTER:

It will have to be seen whether the men are prepared to go to a general strike because the feature of industrial strategy nowadays is not to go on strike, to go slow or to go slower, to black or to claim but never to lose the wages, that is the tactics. Anyhow, I am glad that that has been cleared. Let me go to another area because in fairness if what we are complaining about is the lack of consultation and so on, I hope that what I have said now will certainly be helpful in trying to continue more meaningfully the dialogue that is on or should be on in order to find a solution which is acceptable both to the Government and to the workforce. But let me say that there is another culprit in this conflict and the culprit of course is a great number of citizens, the public. I will not say everybody but a considerable number of people who, never mind with a conflict of this nature where we have not got enough to cope with the cleaning and they should be careful

and they are not, but added to that well knowing that there are difficulties, the same people who complain, well knowing that there are difficulties, well knowing that it does give Gibraltar a bad image, have no conscience whatever in throwing things on the highway, bottles, tins of the various products that are drunk - I do not want to do a commercial here - but a number of bottles particularly of one or two kinds, and leaving them there in the open. I consider that I am entitled, without breaking any industrial disputes, if I see a piece of paper or something lying around where there is a bin, to get it and put it into the bin because I think that that is everybody's duty. Of course it is not everybody's duty to go and sweep the streets for other people but it is everybody's duty to be conscience about their surroundings. And those who want to take this matter to an extreme would not be so encouraged if they found that people were more careful and that what they were doing was not as harmful as it is now because it is aided and abetted by the people who have no sense of dignity and no sense of pride in their surroundings. That has made the thing worse. I make no apologies for saying that. Plastic bags are available both in the Public Works Department and in the shops, generally, at a very reasonable price where a lot of people could put their stuff in plastic bags as in fact all the plastic bags that are put in the refuse collection are dutifully collected every morning and cleared by the refuse collectors. There has been no attempt at all at helping ourselves from the bulk of the people. Very much the opposite. There has been, perhaps unconsciously, an attempt to aid and abet those who are going slow and not doing their duty by embarrassing them with incidents such as the one that the Minister for Public Works gave of people delivering stuff outside and just putting it there and clearing things out and putting the whole place in danger. There was a fire in Devil's Tower Road and it could have had more serious effects. There are many factors in this matter which we are considering now. Talking about the economy when the Honourable Member said a small amount of money, it may well be but everything is small in its own context but the point is that we have £50 million of expenditure or £48 million of expenditure and the bulk of it is small bits so it is no use saying for this thing you can have a settlement tomorrow and if you give us what we were getting there is no problem. Of course there is no problem, whether the problem should have started or not in the first place is another matter. Therefore, as far as we are concerned, we shall consider it our duty to attempt to bring this to a reasonable settlement to make up for any breach that there has been in the time that it should have been given, and I think they now have enough time and unfortunately for the, and I say this in all sincerity, sufficient time to realise the effect that the cuts have had on people's income and the hardship that has created, which is only an indication that if the thing got worse it could get even worse insofar as that hardship is concerned. I am not going to be driven into taking a hasty

decision of this nature for any motion or anything like that. We will just make our position clear, carry on with what we consider to be our duty, correct any areas where there has not been sufficient communication which is a matter, really, for which we must accept political responsibility but really it starts at a much lower area than ministerial decision, and see that we can find a solution. But on the terms on which the motion has been framed, of course the Government will not be able to vote in favour.

HON MAJOR R J PELIZA:

Of course I am interested, generally, on the aspects being discussed today in this House but I am particularly interested from the point of view of tourism which is the responsibility as a shadow minister that falls upon me. There is no getting away from it, Mr Speaker, that the state in which Gibraltar is today and has been now for some years, calls for drastic action and cannot be blamed on any recent industrial dispute that may be going on. The situation has deteriorated. The situation as it stands now is blatantly clear to everybody. But the position has been this way for a long time and the amount that it has been costing has been quite large all along. My Honourable Friend, Mr Bossano, says that if in fact they should be spending less now they must have been wasting a lot of money since 1979, and perhaps that is so. A lot of money has been going down the drain since 1979 and we have said it here, it is nothing new. We have been saying it here now for 10 years at least, and certainly the last four. That, Mr Speaker, is bad administration. It is this bad administration that now that the Government is against the wall because the money is not forthcoming, that they have to take action. Now they have to take action. Now they are going to get tough. But this would not have been necessary at all. The situation would not have developed to the state it is now if right from the beginning the Government had governed. Now it is very, very difficult, suddenly to say: "We are going to govern and expect no reaction" because I think it is very natural that an individual who has been getting quite a fat wage at the end of the week should suddenly find himself with a very high proportion of that packet suddenly disappearing, he is not going to be a very happy man. He can be almost desperate because the Chief Minister himself has brought out a case where an individual who has some commitments, some financial commitments, without any notice suddenly he is told: "You are going to lose so much a week". A responsible person says: "Give me whatever you can, I have got to pay my bills. I may lose my car, I may lose my television set or whatever it may be". The situation has been created by the Government, this is the point. Oh, yes. The situation has been created by the Government because right from the beginning they did not tackle the matter in a sound way simply because money was forthcoming. It was forthcoming from the pockets of the Gibraltarian, the high taxation that we have been paying and that now we are still paying. And that is the situation which the Government has

HON CHIEF MINISTER:

Will the Honourable Member give way. Is the Honourable Member suggesting we have been throwing money away or we have been giving money to the workers for which they have not worked. Let him be quite clear, let him not hide behind the accusation against the Government and not deal with the substance of the matter.

HON MAJOR R J PELIZA:

That is up to the Chief Minister to say. All I know is that they consider that the workers today are not working for that money. We have heard the Minister responsible for the Department saying so very clearly. The sweepers are doing 20% of the work. Has it just suddenly happened that they have decided to produce 20% of the work? And in the past they have always been working alright. Now, suddenly, they go down to 20%.

HON CHIEF MINISTER:

Yes.

HON MAJOR R J PELIZA:

Why? Because they don't get overtime? Is that the only reason they have gone down to 20%?

HON CHIEF MINISTER:

Of course.

HON MAJOR R J PELIZA:

I can't believe it. I believe that there has been lack of supervision all the time, all the time, and that now of course we can work it out in percentages but before it could also be worked out in percentages and it was never done. Why does the Minister responsible think that I have all the time, for a long time, been asking questions on particular things for which I do not get right answers. I can quote the last one in this particular question and I think I am justified, Mr Speaker, in bringing it out in this debate where I drew attention to the Minister in Question 228 of this session about Jumpers Bastion. In the previous session (Question 146) the Minister undertook to see that that place was clean, that was the answer given, and if necessary they were taking the people concerned to the courts. The first thing I did when I came this time was to look at the place. It is dirty, the things are still there. They tell on this question, the same day, that everything is alright. It wasn't alright. I have gone today and it is still there. What action has the Minister taken on this particular issue? This is one point. Obviously, somewhere along the line

there is lack of supervision. That is what is keeping Gibraltar dirty and has been dirty for so long. It is no use looking for excuses about departments themselves. You say the public are throwing the litter on the streets. We know that the litter bins are full and they are not emptied. Who is responsible to see that those bins are emptied? Someone must be responsible. How is it then that the department will allow that to carry on happening and who is blamed? The Gibraltarian who is going down Main Street who cannot throw the stuff in the litter boxes because there is no room there. It just does not make sense, Mr Speaker. This, I am afraid, is the situation of Gibraltar today. Suddenly the Government wants to put things in order. You can't act in this way, if you do you come across a confrontation that probably may take place, whatever the Chief Minister may say. Obviously, the Opposition wants to see Gibraltar clean and will assist the Government in seeing that that happens. We can't be saying here we want Gibraltar clean and at the same time not support the Government in taking action to keep Gibraltar clean. But that does not mean to say that they can be exonerated from blame of what is going to happen. It is unfortunately the duty of the Opposition to act responsibly and carry the can unnecessarily through the bad management and bad administration of the Government. This is the position, I am afraid, that the Government has put the Opposition in and almost the Trade Union into by allowing the situation to develop in the manner that it has. It took a long time before legislation was passed to increase the penalty for people who drop litter in the street, and having been passed it is obvious that the Police are not taking sufficient action on it. What has the Government done about it? What is the Government going to do about it because that is clear, it can be seen everywhere all the time. If I can see it the policeman can see it and nothing happens. We have a very large police force in Gibraltar. There is no question about it. Perhaps per head of population the highest in the world and still they cannot stop people from throwing litter on the street. And we have never had here as yet a good explanation of why that is happening.

HON A J CANEPA:

Mr Speaker, if the Honourable Member will give way. Is he not aware that the police do not work to any Minister, that the political side of the Government does not have responsibility for telling the police what they should do and that the police apparently do not accept that. Not that we do not bring the matter up often enough in Council of Ministers, I can tell the Honourable Member, because we do. Because we are dissatisfied but perhaps no notice is being taken because we are not the master, I only wish we were.

HON MAJOR R J PELIZA:

Well, Mr Speaker, again, that is the ability of the Government to influence the Governor who is responsible for the police to carry out its duties. I, certainly, if I had been Chief Minister

HON A J CANEPA:

The Chief Minister is the first Chief Minister to have monthly meetings with the Governor and with the Commissioner of Police and he has not yet succeeded in influencing that.

HON MAJOR R J PELIZA:

Well, Mr Speaker, it is about time he took stronger action. I would certainly not allow that to happen, I can assure you, if I had been Chief Minister. There are ways of complaining to the Secretary of State. There is no reason why that should not happen.

HON P J ISOLA:

There is a very simple solution. You refuse to provide funds to the police because we control. They may feel themselves to be the masters but we pay them like GBC, if I may say so, exactly the same. We have the power if we wish to use it.

HON MAJOR R J PELIZA:

My Honourable Friend has even come with a stronger means of making the police act in the manner in which this House is asking them, not on the question really of public order, but certainly on the question of keeping Gibraltar clean and tidy which is their responsibility as much as anybody else if that is what the law says. Then we hear about the courts not fining people and again I suppose that a word from the Chief Minister publicly saying: "Look, there is a need for Justices to take a stronger view of this". This is done in many places, it is not a question of influencing the judiciary but of bringing to their notice what is the feeling of this House and which has been the feeling of this House for a long time about the cleanliness of Gibraltar. I have no doubt that the Justices of the Peace will take note. No doubt even if what is being said here today is reported they will take note and take some action in that respect. So, Mr Speaker, I think that if one looks at the situation one cannot help but say that the Government have brought upon themselves the situation that they are facing today. Gibraltar, whether we like it or not must censure to some extent the Government for allowing this to come to this state, that it is necessary that the Government takes action, that it is necessary that the Unions as well should look at the situation very carefully because if we are going to lose tourism, and this is likely to happen,

certainly if we were to have an epidemic I think that would very quickly stop the flow of tourism to Gibraltar and certainly those who come now, whatever the Minister might say as an excuse, let them look at London on the year of the winter of discontent, what was that like? I do not think that that is the way to think about tourism for Gibraltar. The tourists who come to Gibraltar are spending very good money and they expect to find a clean and an attractive place. It is no use telling him that London was worse last winter, come again, because they are not going to accept that as an excuse and I think that the Minister for Public Works was very wrong in fact to make that comparison. Any tourist who is here in Gibraltar and hears that is certainly not going to come back again because if that is the sort of thing that we expect the tourist who comes to Gibraltar to meet and then to accept because it was worse in London a couple of years ago, I really do not know how we are going to progress with tourism in Gibraltar if that is the general attitude of the Minister responsible for embellishing Gibraltar to some extent because it is his department, of keeping Gibraltar tidy. If that is the attitude then I cannot see that we can make progress in improving the product which is so absolutely vital for bringing tourism to Gibraltar and tourism is the second industry in Gibraltar. This is why I say to the unions that they must also bear that in mind. By all means I think they have to fight for a fair wage, by all means they have got to try and get as much as possible in the circumstances, but they also must cooperate.

HON J BOSSANO:

This Friday, Mr Speaker, the sweepers finished at 4 o'clock in the afternoon and they come back to work on Tuesday morning. What does he think anybody can do to keep Gibraltar tidy between 4 o'clock on Friday and Tuesday morning. Do people come in and work for free. Because that is what happened. The Government decided to pay only for 39 hours a week. The Government claims that people are not producing as much in 39 hours as they used to produce when on top of the 39 hours they used to work the whole day Saturday and half of the Sunday. On Sundays half the sweepers worked so we had one Saturday 12 men and the following Sunday another 12 men. The situation is that now when there is a long week-end Gibraltar is unswept for 3 days and on a normal week-end it is not swept for 2 days. That means a dirty Gibraltar on Mondays and Tuesdays even if everybody is doing their job and supervision is good.

HON MAJOR R J PELIZA:

I totally agree with that. I totally agree and I said so at the beginning, that you cannot expect to have Gibraltar clean on a Monday morning or on a Sunday morning if it is not cleaned

on the Saturday. And one sees, in fact, in all these places which are tourist oriented where immediately, even when there is a function, immediately after you see the sweepers coming round to clean the streets. And on Saturdays particularly, on Saturday particularly, they work right to the very end so that on Sunday morning it is clean again. On Friday evenings you also find them working in all these places till late, so that on Saturday mornings it is clean because Saturdays is one of the days where in most places, not so much in Gibraltar, perhaps, but in most places, there are more people moving around, it is the shopping day, it is a week-end where people go to particularly tourists resorts, and it is then that you need most people cleaning the streets. And, equally, I think on the Sunday where, again, people go out. So I think that is false economy, if I may say so to the Government. I think that is vital to keep the Saturday as a working day and the Sunday if we want to have on week-ends a clean Gibraltar. I think the tourists who goes around on a Saturday and finds everything filthy and on Sunday they find everything filthy and he is probably going on the following day, on the Monday, I think they come on the Monday and they go on the Monday, it is hardly a reception to see dirty Gibraltar on Monday when he comes and filthy on the Saturday, the Sunday and the Monday when they go. In that respect, I have said it before and I repeat it. I think it is false economy for the amount involved to do that. That does not mean to say that they must not demand productivity for that money or for the rest of the week. This is why I say I cannot understand how it can drop to 20%. Obviously what is required is proper supervision. If people are allowed after a number of years not to be supervised, no one really taking much notice, it is obvious that it comes down to a very, very low level. And this is what happens now. To bring it up is going to be a very difficult situation. I appeal to the Government to be tactful in the way they approach this and to the unions to realise I think also the responsibility, the importance of keeping the economy of Gibraltar going so that in fact they can carry on receiving the pay they are getting today. From the point of view of tourism I think it is vital that the Minister responsible for this particular area of the Government takes a more positive view towards the importance of keeping Gibraltar tidy and clean and embellishing Gibraltar all round.

MR SPEAKER:

I will then call on Mr Scott to reply.

HON W T SCOTT:

I think the matter has been well ventilated and I am grateful, in fact, very grateful that the Honourable Member on my left has chosen to make the exposition in the manner that he did. He has provided the House with a lot of information, certainly

that Members of my party were not aware of and also the information that the Minister for Public Works has given the House. I am also rather sad that we have to wait for a motion of this nature to reach the House before the public is informed as to exactly what is happening in the situation, and they are the sufferers. I need not go much into it except to mention what the Honourable Minister said about hoping that the police will reply. I agree entirely with what my Honourable Friend on my right said a few minutes ago that some new injection has to be made and some pressure has to be applied to the police even if it reaches the level proposed by my Honourable Leader, Mr Speaker, one final word. Although the Chief Minister said in his contribution right at the end and almost in a whisper said that Government could not agree to voting for the motion there has been no indication as to why. We have had no indication whatever as to why.

HON CHIEF MINISTER:

I said why. Because one interpretation has been put in by the mover and another interpretation has been put by his Honourable Colleague, Mr Loddó.

HON W T SCOTT:

Well, Mr Speaker, I think it has been very well ventilated and I commend the motion.

Mr Speaker then put the question in the terms of the Honourable W T Scott's motion 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 Loddó
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 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 R J Wallace

The motion was accordingly defeated.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House urges the UK departments to enter into meaningful negotiations with the trade union movement to increase the civilianisation and localisation of posts within employment of these departments in the light of the increasing levels of unemployment currently being faced in Gibraltar". Mr Speaker, in bringing the motion to the House, what I am seeking is that by getting the support of the House of Assembly to this motion, the task of the trade union movement in helping to create extra jobs for local workers within this department will be assisted. The unions have, in fact, as a standard policy, Mr Speaker, for many years sought to localise and to civilianise as many posts as possible and to some extent, except I think for CPSA, where there was in fact an agreement in 1977 as a result of the settlement following the lock-out of CPSA members, following that there was an agreement and an enquiry carried out into the dispute which resulted in a Working Party being set up in 1977 which finally reported in 1979 and identified 29 posts in the RAF Gibraltar which could be done by civilian clerical and administrative workers. Having identified the posts, having reached agreement that they could be done by civilians, the matter was then referred to the MOD in UK and it was turned down by the MOD in UK in 1980. In fact, it was something that quite frankly the CPSA, as a union, felt that they had been led up the garden path by the Ministry of Defence because there was this enquiry in 1977, the recommendations of the enquiry were supporting the union position, there was a Working Party set up, the Working Party studied the situation for 2½ years and then at the end of the day a ministerial decision was taken to keep the jobs as military positions and not as civilian positions. I think in the context of the current retrenchment being faced by the Gibraltar economy, the lack of job opportunities for school leavers, the possible consequences of a reduction in the Dockyard if we are successful in preventing its closure, all lead to a situation where the job availability in Gibraltar is reduced and consequently the trade union movement have as a matter of priority revised its outstanding claims for civilianisation. In fact, the RAF is a clear-cut case because there, numerically, there are far less civilians in proportion to servicemen than there are in any other defence establishment in Gibraltar where the jobs could be done by civilians. For example, I think on the industrial side there is something like 2 civilian drivers out of a total complement of about 30. On the RAF Fire Service side, I think it is something like a third of the firemen are civilians and two thirds are service personnel in mixed crews. The RAF is one clear-cut area where quite a number of jobs exist which could be done by local people and where in fact the cost to the employer would be reduced and that is an argument that is being pressed by the unions against the background of defence expenditure being restricted. The advantages for the economy of Gibraltar

are obvious. The advantages for the economy of Gibraltar, as well as providing employment, the situation is of course that local workers pay local taxes and servicemen do not pay local taxes because they pay taxes in UK. Therefore if one has to choose between the locally entered civilian or the UK based, although it is preferable to have full employment amongst local civilians and high numbers in the services because they add to the expenditure, the input-output study clearly showed that if we have to choose between losing one or losing the other it is better to lose a UK based because the loss to the economy is less. There are also a number of jobs within the MOD and the DOE where the unions are in fact involved in trying to get increased civilianisation and specifically in DOE where there is, in fact, at the moment a dispute covering one of these posts and there has been an indication of an attempt from London to move in the opposite direction and to de-localise some administrative posts which is being resisted by the union. What I am saying in bringing this matter to the House is that the philosophy of increased civilianisation and increased localisation of posts which has been so far taken up purely in an industrial relations context without much success, I am sorry to say, should now be helped and assisted by the House adopting as a matter of principle a resolution which endorses that policy and seeks to lend its way politically to get the UK departments to enter into the negotiations that are currently taking place with a more receptive frame of mind than experience over the last few years have shown us. As I quoted, Mr Speaker, something that started off in 1977 that looked quite optimistic in 1979 when the unions were hoping to get 29 jobs, has finished up in 1982 with no jobs at all.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, I fully support the motion brought by the Honourable Member, Mr Bossano. This is something that I have identified myself with since my early days when I worked for the then War Department, when I was in fact Assistant Secretary to the late Tony Cavilla and also Assistant Secretary to my Friend Isaac Abecasis and also acting Secretary to the then Civil Service Clerical Association as it was then known and we had our struggles in the early 1950's. We managed to progress slightly but the progress has not been enough. I think there was more progress in terms of civilianisation than localisation, certainly in my time. We certainly made some progress in civilianisation because we had National Servicemen in those days and it was far easier, but there was far stronger opposition in terms of localisation. I always felt that there was an element of jobs for the boys in all three services plus the Department of the Environment, or whatever it was called in my days, the MPBW. I think that Mr Bossano has highlighted

the Royal Air Force as one of the main culprits and it was certainly the worst one in my time in 1954. When I think the highest grade was a Grade 1 Clerk in the whole of the Royal Air Force, certainly in the clerical side, and I think we managed to improve on that although part of the work was then later passed to the Dockyard. I am glad he mentioned the Input/Output Study because there it is highlighted quite clearly that though we might lose the job from a UK expatriate or from an army chap, the economic impact is far greater if we lose a job for a local chap and with the pressures that are now on on unemployment, with the harmful effect that the partial opening of the frontier is doing on business and trade generally and on unemployment, generally, with the threat of the dockyard, I think it is only right that this House should show support to the Trade Union Movement because in the final analysis we are going to support our own economy, our own identity, our own community, and it is a hard struggle to convince MOD when they think in terms of secrets and they forget about their Philbies and Burgesses and Mcleans and all the rest. I think that Gibraltar has shown itself to be loyal to the British Government because we are British even though we might be Gibraltarians. It is a hard struggle, it is something that I do not like to give in easily, it is almost the same as land, the same problem as land. I cannot add anything except that I support the idea and the thought behind the motion brought by the Honourable Member.

HON MAJOR R J PELIZA:

Mr Speaker, on behalf of my Party I can say that we also totally support the motion and wish them every success. It would be interesting, of course, from time to time, to hear what progress is being made. I don't know whether the union can publish reports which they can pass to the Members of this House stating what is happening, what are the posts that need filling that they are asking for, if they are refused, why they are refused and what are the prospects in future of further progress. Just passing a motion it is very fine and good, well; it is good public relations but it might lead to nothing in the end. I think that more than just giving lip service to the motion, I think this House must be prepared to do a bit more than that and I hope that the Trade Unions will be able to keep Members of the House informed of progress. We certainly support the motion.

MR SPEAKER:

Are there any other contributors who would like to speak to the motion?

HON J BOSSANO:

I am glad that nobody has suggested removing anything after the word "this House". I welcome the support from both sides

of the House. I take entirely the point made by the Honourable and Gallant Member and I shall make it my business, in fact, to ensure that the situation which is reported back to the Trades Council from the different unions involved in these negotiations, that that report back is then copied to every Member of the House and I think it is quite right that if the House is being asked by me on behalf of the Trade Union Movement to lend its weight to their negotiations, that the Trade Unions should come back and let the House know how successful or otherwise they have been in their negotiations. I welcome the support, Mr Speaker, and very much so the words of the Honourable the Minister for Labour who I think has in fact expressed precisely the kinds of arguments and feelings that are at the root of the position of the Trade Union Movement which is the same now, as he says, as it has been for very many years. Fundamentally the situation is the same, the feeling is the same, the claims are the same, but we feel that now, more than ever, the need is greater than it has ever been before.

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

ADJOURNMENT.

HON CHIEF MINISTER:

Mr Speaker, I beg to move that this House do adjourn until the 28th of June, hopefully, at 10.30 am and necessarily at 9 o'clock.

MR SPEAKER:

It will be at 10.30 am and then we can take a decision once we meet again. I will now put the question since it is not a final adjournment.

HON CHIEF MINISTER:

Perhaps I should say a little more. The purpose of this meeting will be purely to bring in a motion regarding commercialisation, whatever comes out of the wash, and it makes certain assumptions in respect of availability and other results of events from the 9th of June which need not prejudice the results, I don't want to interfere in what happens somewhere else, but it is the best date that I can find within the parameters of what is being discussed. I am just giving notice that there might be a slight change but this is the best date that I can find having regard to all the things that I know have to happen before, it might have to be later and we might have to come here to adjourn formally.

MR SPEAKER:

In other words, you do not anticipate that it will be earlier than the 28th, that is what you are saying. That is correct?

HON CHIEF MINISTER:

That is right, rather later than earlier.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday the 28th June, 1983, at 10.30 am.

The adjournment of the House to Tuesday the 28th June, 1983, at 10.30 am was taken at 4.30 pm on Wednesday the 25th May, 1983.

TUESDAY THE 28TH JUNE, 1983

The House resumed at 10.40 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

The Hon P J Isola OBE - Leader of the Opposition
The Hon G T Restano
The Hon A T Loddó
The Hon A J Haynes

ABSENT:

The Hon Major R J Peliza
The Hon W T Scott
The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, when we adjourned our meeting on the 25th May I said that I hoped that we would be able to meet today to deal with the question of the motion on the Dockyard but I did sound a note of warning that we might not be ready for it as indeed we are not and therefore I am moving the adjournment of the House sine die. It is also a matter of public record that there is a meeting summoned for the 5th July, a routine meeting, at the end of which I hope to be able to have more certainty as to the date when we will meet for the debate which would might have taken place today if things had moved the way one thought at the time but this has not been the case so therefore I move that the House do adjourn sine die.

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

HON P J ISOLA:

Mr Speaker, I was given notice that the Government was not ready to have a debate on the Dockyard around the middle of June, I think the Chief Minister wrote to me to that effect care-of my deputy leader as I was away from Gibraltar from the 10th to the 19th of June. However, I would like as the question of commercialisation of the Dockyard is the most serious problem facing Gibraltar, I would like to ask the Chief Minister before we actually adjourn if there have been new problems or different news with relation to the Dockyard that has brought about changes in plans in the last four days that the House should be informed of?

MR SPEAKER:

Before the Chief Minister replies and I put the question I would like to say the Honourable and Gallant Major Peliza has given notice that he wanted to raise certain matters. He said he would like to raise on the adjournment the question of the enfranchisement of Gibraltarians for the European Parliament. He is not in the House and therefore he foregoes his right to do so.

HON CHIEF MINISTER:

I am happy to reiterate what I have informed the Leader of the Opposition in an open letter. I think it is not unknown that there was a general election in the United Kingdom since the 25th May and that certain events that had to take place were obviously delayed. Certain events that had to take place and certain factors before the proposed discussion on this have slipped like so many other things have slipped part of which, of course, is not our fault. There are no new factors other than those that I have informed the Leader of the Opposition publicly and I cannot go any further on that.

HON P J ISOLA:

Mr Speaker, the thing is this, that I was never asked to join the Chief Minister at any time nor did I expect to be asked, but I was asked on Tuesday evening and what I was really referring to was have factors occurred in relation to the visit, I appreciate the delay there has been because of the British general election, but have factors occurred in the last seven days, I did say a short time, that have produced changes of plans of which we ought to know, that is all.

HON CHIEF MINISTER:

In due course every detail will have to be given here but I reiterate that certain events within the functions of the Government as such have occurred which have warranted having an earlier visit for one purpose, as I say, leaving the other visit pending whatever may arise in respect of that. I cannot go any further than that, all I can say is that I appreciate as everybody must appreciate in Gibraltar, that the Dockyard is the most important factor now taking the concern of the people and particularly the Government who have got certain responsibilities and that it is inevitable that these things happen.

HON P J ISOLA:

Mr Speaker, I will not press the matter any further but it does seem to me odd.

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

The adjournment of the House sine die was taken at 10.45am on Tuesday the 28th June, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6 July 1983

Vol. I

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Wednesday 6th July, 1983.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

MR SPEAKER:

As Members are aware there was an amendment to the minutes which has been circulated and it has been incorporated in the minutes book. May I sign them now?

The minutes were confirmed.

DOCUMENTS LAID

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

The Certified Accounts of the Gibraltar Quarry Company Limited for the year ended 30th November, 1982.

Ordered to lie.

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

The Tourist Survey Report, 1982.

Ordered to lie.

The Hon the Minister for Education and Health laid on the table the following document:

The Accounts of the John Mackintosh Hall for the year ended 31st March, 1983.

Ordered to lie.

The Hon the Chief Minister, in the absence of the Hon the Financial and Development Secretary on urgent official business, laid on the table the following documents:

- (1) Supplementary Estimates Consolidated Fund (No 1 of 1983/84).
- (2) Supplementary Estimates Improvement and Development Fund (No 1 of 1983/84).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 8 of 1982/83).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 9 of 1982/83).
- (5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 3 of 1982/83).
- (6) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 1 of 1983/84).

Ordered to lie.

ANSWERS TO QUESTIONS

HON CHIEF MINISTER:

Mr Speaker, I would request that the questions which are first on the list, that is, Questions Nos. 247 to 252, which the Financial Secretary will be answering, be taken later on in question time as he is urgently engaged in important discussions.

MR SPEAKER:

I feel sure that Members of the Opposition will have no objection as the established practice has been that when a Member is unable to attend at the required time his questions have been deferred to a later stage of question time. So we will now call Question No. 253.

The House recessed at 1.15 pm.

The House resumed at 3.20 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, it is with much pleasure that I rise to make what has now become a customary annual statement on the activities of HMS Calpe. HMS Calpe continues to provide essential personnel to man the Maritime Headquarters and the Port Headquarters in Gibraltar at times of tension and war. The training is geared to these tasks and good results were achieved in exercises during 1982. Officers and Ratings participated in the following three exercises locally:-

- a. "Dense Crop" - A NATO command post or paper exercise.
- b. "Sea Supply" which was primarily concerned with Naval Control of Shipping.
- c. "Open Gate" - An annual NATO live exercise in which ships, aircraft and submarines test the defences of the Straits of Gibraltar. Three officers volunteered to undertake this exercise at sea - Sub-Lieutenant Figueras was appointed to HMS Dido and Sub-Lieutenants Victory and Cardona to HMS Bacanti.

In addition to these three exercises HMS Calpe provided a total of 15 ratings to assist with the manning of two Maritime Headquarters in the United Kingdom during exercise Northern Wedding in September.

In October, the Unit had the honour to provide a Quarter Guard at the House of Assembly for the Swearing-In Ceremony of His Excellency the Governor and Commander-in-Chief.

From time to time, personnel are sent to the United Kingdom for professional training at the various RN Training Establishments. In 1982, fourteen Officers and twenty-four Ratings attended these courses. Eight Officers attended Naval Control of Shipping Courses. Other courses included Personnel Selection; Mine Counter Measures; HQ Typing and Automatic Telegraphy; Training Design, Leadership and Instructional Technique.

In October, a team from the Maritime Trade Faculty of the School of Maritime Operations at HMS Dryad came to Gibraltar to conduct a Naval Control of Shipping training weekend in the MHQ. This exercise proved to be very successful and was well supported by thirteen Officers and seventeen Senior Rates from HMS Calpe.

Four Officers (Lt-Cdr J A Torres, Lt A D Lima, Lt D Figueras and S/Lt D Harrison) were awarded the Reserve Decoration and one Senior Rate (Chief Petty Officer L Parody) was awarded the Clasp to the Long Service and Good Conduct Medal.

On 14 December, 1982, the Commanding Officer, Commander Mesod Massias relinquished his command of the Unit and Commander Joe Ballantine assumed command upon promotion. In recognition for his service to the RNR Commander Massias was awarded the OBE. Mr Speaker, I am sure that Members of this House will wish to join me in publicly thanking Commander Massias once again for all his efforts on behalf of the Unit and wishing Commander Ballantine all good fortune at the Helm.

Amongst the visits paid to HMS Calpe, I should like to highlight the visit by His Excellency the Governor and Commander-in-Chief, who inspected the Unit at Divisions and met personnel at their Training Classes.

At the end of the year, under review, the complement stood at eighteen Officers and eighty-one Ratings leaving a shortfall of two Officers and thirty-four Ratings. However, I am pleased to note that the Flag Officer Gibraltar, Rear Admiral Vallings, has informed me that a very successful recruiting campaign was recently carried out and that the shortfall has since virtually been removed. He has also stated that he has seen a lot of HMS Calpe as it were "in action" during exercises here and that he has been very impressed. He has also just completed his bi-annual inspection and has assessed the Unit as being good.

In conclusion, Mr Speaker, I am sure all Members of this House would wish to join me in expressing our very best wishes to the Unit.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to, on behalf of my party, to associate myself with the words of praise and congratulations to our Naval Unit in Gibraltar. I think it is also a very good thing that the Chief Minister is now able to make a statement with regard to this Unit in this House. It is obviously very much in the interests of Gibraltar and certainly a responsibility of this House to the servicemen who are serving in HMS Calpe and that we should get to know of their progress and, finally, I would like to say that we can all feel very proud of the very responsible work they are doing in connection with NATO and I think with the defence of the West, generally.

HON P J ISOLA:

Mr Speaker, I would like to ask the Chief Minister why he is not making a statement, in addition to that on HMS Calpe, on the other important matter that has occurred recently on his visit to the United Kingdom and does he intend to make a statement to this House and now would be the time to do it?

HON CHIEF MINISTER:

I intend to make a statement and it is my judgement as to the right time to do it, not now.

HON P J ISOLA:

Is it then the policy of the Chief Minister to comment to the press and not to report to the House.

HON J BOSSANO:

Mr Speaker, can the Chief Minister say whether there are plans to move HMS Calpe from its present location?

HON CHIEF MINISTER:

Yes, I think there are plans to move HMS Calpe to a better location, for whatever reason I do not know, and I hope that whatever happens their intended transfer to the old USOC would be a very good thing for the Unit, first, because it is a much better place and, secondly, because they will be more in the public eye. They have not got parades or the Ceremony of the Keys or other opportunities in which the people can participate in the work that the Gibraltar Regiment does and that would be a good place for them to be seen more but the consideration for the removal or not is not a matter for me at this stage. I was reporting on last year, not on next year.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Mr. Speaker, in answer to Question No. 287 of 1983, I stated that I would be making a statement on the introduction of Pay Car Parks.

The Government has decided to introduce pay parking at the Western Beach and at the British Lines Road Car Parks (the latter is sometimes known as 'The Loop'). These car parks will be operated as follows:-

(a) Western Beach Car Park

This area is intended to be a "short term" car park primarily for visitors to the Airport Terminal. It will be open from 8 am to 10 pm and the fee to be charged has been set at 50p per hour or part thereof. Drivers will be issued with a time-stamped ticket on entry which will have to be handed back on exit in order that the Car Park Attendant can determine the fee payable. As I said earlier, the car park will be closed at 10 pm and it is in the driver's interest for his vehicle to be out of the site to avoid a tow-away charge.

There will be a penalty fee of £6 if the driver of a vehicle loses the ticket which was issued to him on entering the car park and cannot therefore hand it back on the way out.

(b) British Lines Road Car Park

This area is intended to be a "long term" car park and a fee of £3, payable on entry, will be charged which will allow an uninterrupted stay of 72 hours. Drivers of vehicles will be issued with a self-adhesive time and date-stamped ticket on entry which will have to be displayed on the vehicle's front windscreen. Vehicles leaving the car park will forfeit any unexpired period of the 72 hours.

The car park will be controlled from 8 am to 10 pm and the Government has decided to allow free access to the car park after 10 pm but vehicles making use of this concession will have to be out of the car park by 8 am the following morning. Vehicles found in the car park without having a ticket on display on the windscreen or those which exceed the 72 hour stay are liable to be towed away by the Police.

Administrative arrangements for the operation of the car parks are now being finalised and it is hoped to introduce pay parking within the next few days.

It is intended to operate both car parks for a trial period of 8 weeks at the end of which consideration will be given to whether these pay car parks will be operated on a permanent basis and whether the fees should be reviewed.

As to the last part of the Hon Member's question the Government does not consider that there was any need for consultation with the Opposition on this matter.

HON P J ISOLA:

Even though commitments were given in this respect by the Chief Minister in this House?

HON M K FEATHERSTONE:

No, Sir, there was no commitment.

HON CHIEF MINISTER:

It was said that this was a municipal matter on which we were acting on our own because there was no need for consultation.

HON P J ISOLA:

I am surprised, Mr Speaker, that we were asked for a meeting and given proposals as to parking and given proposals as to a departure tax and that's it. If that is the way they want to run it so be it.

HON A J HAYNES:

Mr Speaker, are these proposals prior to the agreement with the taxi drivers?

HON M K FEATHERSTONE:

This is a facetious question, no, Sir.

HON G T RESTANO:

Mr Speaker, the car park opposite the airport is said to be for short term periods. How short are these periods going to be and how is it going to be controlled and after how many hours is a car to be towed away.

HON M K FEATHERSTONE:

As far as we are concerned you can put the car in at 8 o'clock in the morning and you can take it out at five to ten at night and pay sixteen hours at 50p an hour, we do not mind, but the normal use is intended as short term, perhaps, one hour, two hours, three hours but if you wish to stay there eight or ten hours you can do so.

HON G T RESTANO:

Are any facilities going to be given for those persons using that particular car park only for the airport?

HON M K FEATHERSTONE:

There is a disincentive. If you are going to park there for eight hours you are going to pay £4 and it would be cheaper to go into the other car park.

HON G T RESTANO:

But if the other car park is full and people want to go across and leave their cars in there what I want to establish is, is there going to be any priority or any facilities reserved for those people meeting people off the aircraft both the London flight and the other one?

HON M K FEATHERSTONE:

I can see the Hon Member's point but if I were going to go to Spain and I wanted to put my car in there and the person at the entrance says: "Where are you going, Spain or the airport?" I would say: "I am going to the airport". He cannot hold a pistol at my head and make me confess exactly where I am going. Having got in there I would then go to Spain and say I have stayed in the airport for four hours. It would be very difficult to administer.

HON G T RESTANO:

So you could therefore get a situation, Mr Speaker, where an aircraft comes into Gibraltar from London, shall we say, round about lunch time, and persons going to meet persons off that aircraft could find no place to park at all.

HON M K FEATHERSTONE:

You could get that situation, yes.

HON G T RESTANO:

Is the Minister for Tourism not concerned about that situation?

HON M K FEATHERSTONE:

How can you prove that somebody going in there is a bona fide visitor to the airport? You would have to take his word and if he said he was going to the airport and instead he went to Spain, well, that would be the situation.

HON G T RESTANO:

What I am trying to avoid is persons using that on a long-term basis. Going to the airport to meet someone the maximum would be an hour, an hour and a half, two hours so if somebody stays for more than two hours then measures should be taken to ensure that those going to the airport do have the opportunity of parking.

HON M K FEATHERSTONE:

Well, if we find that that is happening after the eight weeks, we intend to review the fees and we could make it 50p for the first two hours, £1 for the next two hours, £5 for the next two hours, etc to discourage long-term parking.

HON MAJOR R J PELIZA:

If the Minister is going to review the scheme could he look into the question of having machines as well whereby you get your parking ticket and you display them on your windscreen?

HON M K FEATHERSTONE:

We have looked at machines but we find that the machine on entry controlled by a man and the man on the way out to collect the money is a better system.

HON G T RESTANO:

The other question I had, Mr Speaker, was how many persons are going to be employed to control the car parks to collect the money and so on and what is the cost of the operation going to be?

HON M K FEATHERSTONE:

On a shift system three will be employed at each car park. I am not sure what the actual costs are but the projections are that we should make a profit out of the car parking.

HON G T RESTANO:

How many shifts are there going to be? You say three per shift, how many shifts will there be?

HON M K FEATHERSTONE:

There will be two shifts per day, one from 8 am to 2 pm, one from 2 pm till 10 pm but of course as it has to work on a seven day basis the three men will work on a roster so that each man is doing the correct amount of time.

HON G T RESTANO:

So you have two shifts of three.

HON M K FEATHERSTONE:

No, at each car park there will be three men.

HON G T RESTANO:

Per shift.

HON M K FEATHERSTONE:

No, three men altogether. One man per shift, in one day two different men, but three men to work over a period of seven days.

HON G T RESTANO:

So we are talking of six men for both car parks. Has the cost been estimated?

HON M K FEATHERSTONE:

Some costing was done. I cannot remember the figures as such but assuming an occupancy of some 40% to 50%, it will break even, if it is above 40% to 50% it will then be making money.

HON J BOSSANO:

Mr Speaker, could I ask on a point of clarification? Why is there a time limit of 10 o'clock at night?

HON M K FEATHERSTONE:

If we were to put three shifts running all the way through at the North Front area, it would need five men and that is considered to put the cost up very considerably. The Western Beach car park closes at 10 o'clock because that is one of the conditions under which we inherited that area from the RAF.

HON J BOSSANO:

The RAF have put a condition that the place cannot be used after 10 o'clock at night, is that it?

HON M K FEATHERSTONE:

Yes, that is correct.

HON P J ISOLA:

If the Government is not going to make any money out of it, Mr Speaker, what is the point of having all this hustle?

HON A J CANEPA:

Who says we are not going to make any money?

HON P J ISOLA:

Well, the Minister has just said he requires the place to be 50% full.

MR SPEAKER:

With respect, the Minister has answered a question that he was asked. He was not saying that he is doing this for the purpose of making money.

HON P J ISOLA:

That is why I am putting the question, Mr Speaker. If there is no intention to try and make money from this operation so we can recoup part of the £750,000 of the frontier opening which the Financial Secretary has told us about, what is the point of going through all this hustle and putting everybody through inconvenience and so forth if the net gain to the revenues of the economy is going to be almost nil, unless the Minister has another estimate?

HON M K FEATHERSTONE:

There are two or three reasons why we are doing this, it is not to try and get back the £700,000 of the frontier. It is, firstly, to start a situation in Gibraltar in which pay parking should become the order of the day. Secondly, we do expect to make some money out of it because our projections think that we should get an 80% to 90% occupancy but I just told you that 40% to 50% is a break even figure. It does not mean to say we are aiming at 40% to 50%. Thirdly, it is to provide some jobs at a time when there is a certain amount of unemployment and when I am sure jobs are very welcome.

HON P J ISOLA:

Mr Speaker, can I ask the Minister then if there is 80% occupancy, what is the profit the Government expects to make in a year's operation?

HON M K FEATHERSTONE:

I think we should make about £80,000.

HON P J ISOLA:

Well, that should sort it all out, it should solve the problems that the Government have.

BILLS

FIRST AND SECOND READINGS

THE ELECTIONS (AMENDMENT) ORDINANCE, 1983

HON CHIEF MINISTER:

I beg to move that this Bill 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:

Sir, I have the honour to move that the Bill be now read a second time. The Bill before this House seeks to provide for persons who are ordinarily resident in Gibraltar but are temporarily absent on courses of study or for health reasons or residential purposes as in the case of business employment carried out from within Gibraltar, to cast postal votes in elections. It also repeals the provisions in the principal Ordinance that at present entitles persons only having non-residential qualifications to vote in elections. It further provides that to be entitled to vote a person must be a British Citizen, a British Dependent Territories Citizen, a British Overseas Citizen or a British Subject under the British Nationality Act, 1981. These provisions will not apply to persons who under existing legislation are already entitled to vote. May I mention, as an example, for some unknown reason Irish Subjects have the right to vote in Gibraltar because the elections legislation was copied from the legislation in the United Kingdom where Citizens of Eire are entitled to vote in UK elections. The position at present is that all persons who vote have to vote at the polling stations except those who satisfy the Returning Officer by means of a medical certificate that they are unable to attend at the polling station. These are termed absentee voters and their vote is taken at their place of abode, hospital, etc. In the UK all persons voting must do so at the polling station allotted to them except service voters, persons unable to go in person to the polling station allotted to them for a number of specified reasons and do so by post after having previously applied to be treated as absentee voters. Where it is impossible for a voter to furnish an address in the UK to which a ballot paper can be sent, that person applies to vote by proxy. As Members are aware, the desirability of introducing appropriate legislation so that persons who at election time are away from Gibraltar such as

students, holiday-makers, etc, are able to vote by post, has been mooted from time to time. I am now pleased to inform the House that after considering the practice in the UK, which I have explained, it has been decided to amend the existing Ordinance so as to permit absent voters to register their vote by post. However, in order to safeguard the system, applications to register as an absent voter will only be accepted from an elector who is outside Gibraltar - (1) following full-time or part-time course of study at a University or at an establishment of further education (2) for health reasons, or (3) for purposes connected with his employment within Gibraltar and who apply from outside Gibraltar to the Returning Officer to be registered in the List of Voters - (a) by reasons of leave, vacation or holiday (b) for health reasons, or (c) for purposes connected with his employment within Gibraltar and who applies in person to the Returning Officer to be registered in the List of Postal Voters. The opportunity has also been taken to take a fresh look at Section 2(2) of the principal Ordinance which at present entitles persons only having a non-residential qualification to vote in elections. These were in the main British Subjects ordinarily resident in the Campo Area. The qualifying area in Spain is defined in the Ordinance by reference to Her Majesty's Vice-Consular District at La Linea and Algeciras. The Vice-Consulates have since been abolished and it is quite undesirable to keep the existing provisions. 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:

Mr Speaker, may I make a point to start with and that is that as far as Elections Ordinances are concerned, anything to do with method of election, who can vote and so forth, I would have thought that this is a matter on which there should have been consultation.

HON CHIEF MINISTER:

But this follows from questions from the other side.

HON P J ISOLA:

I cannot remember. That is one thing. The other point I would like to see, I think, Mr Speaker, before this is actually enacted, I think that what we ought to see are the proposed draft regulations for postal voting because what this legislation brings in is an ability of people to vote by post which is quite a big thing and I would certainly like to see the regulations before the legislation is enacted because I think they should go together. We are not against the principles of votes

by post, of allowing postal voting, but we want to know how it is going to be controlled, how it is going to be administered and whether the capacity is there to administer it in Gibraltar. These are the things I would like to see. The question of repealing Section 2(2) of the principal Ordinance, does that mean then, not that we are particularly opposed to it, but if people in Gibraltar because of serious housing shortage in Gibraltar, a housing shortage that is likely to go up rather than down, buy flats in La Linea or live in La Linea, are they now to be deprived of voting?

HON MAJOR F J DELLIPIANI:

I hope so.

HON P J ISOLA:

I know that the Minister says he hopes so and I would agree with him if Government were fulfilling its obligation to supply housing to the community which it does not. I think there may be genuine cases of people who in order to keep a family together are forced to live in the Consular district in this area.

HON MAJOR F J DELLIPIANI:

It has not happened for the past ten years.

HON P J ISOLA:

It has not happened, it is true, for a long time but when the frontier was open it did happen and people did vote and did exercise their vote. I am not concerned with making judgements on people as to whether they should live or should not live in La Linea or in the Consular District but I am anxious that people who are living in Gibraltar and making their life in Gibraltar and who are British Subjects or even Gibraltarians should not be deprived of their right to vote and I just wonder whether it is wise now to introduce this particular provision. We would like a little time to consider this Bill although we are not against it, Mr Speaker. I would not like to be rushed into it and I would ask, anyway, that the draft regulations for postal voting should be produced in good time before an election. It would be totally wrong if we were to have an election announced and then because of the urgency, because there is 21 days to go and so forth, the Governor-in-Council should just push in postal regulations, how they are going to vote by post, without any consultations or without any time for anybody to think, consult and reflect. I would ask that the Government agrees not to enact this fully until we have available to us the whole package, including the regulations.

HON A J CANEPA:

Mr Speaker, I find it extraordinary that the Leader of the Opposition in his concern to score debating points against the Government such as by making a remark that the Government is not discharging its obligation to house people in Gibraltar, loses sight of the far wider issues and the far wider implications of people who may take up residence in Spain who thereby have conflicting interests because the moment that you take up interests in Spain or you set up business in Spain, you are under pressure from the Spanish authorities in that connection. I know that before the frontier closed there were a number of Gibraltarians living in Spain. I think that that was a throw-back to the happy days before the Spanish Civil War when there seemed to be the normal civilised movement in both directions of any two close communities but that is no longer the case and I think that too much water has gone under the bridge since 1964 to allow a situation in which a substantial number of British Gibraltarians take up residence in Spain, their loyalty to the interest of Gibraltar could thereby be undermined by conflict and with the emergence of political parties in Gibraltar with policies as regards the future status of Gibraltar which no Member of this House likes, I am frankly surprised at the attitude of the Hon the Leader of the Opposition who is also the leader of the Democratic Party of British Gibraltar.

HON P J ISOLA:

If the Hon Member will give way.

HON A J CANEPA:

I am not giving way, Mr Speaker. We are in the Second Reading of the Bill and I am exercising my right to take part in the debate. I have finished my contribution.

HON MAJOR R J PELIZA:

Perhaps I can give an opportunity to my Hon Friend to be able to say something if he asks me to give way. I think that the Minister for Economic Development has gone a bit far in condemning the Leader of the Opposition just by one remark. I think that the remark is very truthful, the Government of Gibraltar is not providing sufficient houses in Gibraltar there is no question about that, that is a fact.

HON P J ISOLA:

If the Hon and Gallant Major would give way. How can the Minister for Economic Development, forming part of a Government that is actively encouraging by allowing advertising of Spanish products and Spanish flats in Spain, then condemn people for falling to advertising from a Government subsidised organisation?

HON A J CANEPA:

Mr Speaker, when a Member of the Government gives way to me in a minute I will answer the Leader of the Opposition on that point.

HON MAJOR R J PELIZA:

Mr Speaker, I think he went too far in his statement. I think that all my Hon Friend was saying was that we are now in a very transitional situation, no housing, the possibility of having, if not permanent, temporary accommodation in Spain, not that we like it, not that I think anyone would like to see that having to happen but it is also a fact, Mr Speaker, that there are lots of people in Gibraltar living under terrible conditions who if they think that it is not going to affect their loyalty in any way but could improve their living conditions, then they may be tempted particularly if they have not got any children, to move there if only temporarily until perhaps another Government takes over and provides the houses that are not being built in Gibraltar at the moment. That does not mean to say in any way that they have lost their allegiance and what my Hon Friend is saying is that before we rush into this, unless the Chief Minister is thinking of having an election after he makes the statement on the Dockyard, we do not know, if that is the case then perhaps he is trying to rush this through but I cannot see the need to rush it through, I think there is time to give it some consideration. It could be that perhaps a time limit could be given as to how long people in the Campo Area could vote if they were Gibraltarians so that they do not come so much under the influence of the Spanish Government that they are no longer free agents when they are voting. I think there are lots of points that have to be looked into, I do not think my Hon Friend said: "Yes, we have got to include them", all he said was: "Let's give it some thought", so that in no way do we deprive the Gibraltarians from exercising their democratic right because after all, if he is living in England like I am, I would like to exercise and I do exercise my vote and there are other people in Britain who feel the same way, I do not think that certainly in my experience that perhaps this House would see any diminution of my loyalty to Gibraltar and I think it is going too far just to make a statement of that nature. I personally believe that if we do extend this to Spain we have to give it considerable thought before we do that and I agree to that extent with the Minister but what I am saying is let us not rush into it, let us give it some thought.

HON J BOSSANO:

I welcome the decision of the Government to bring this Bill to the House which in fact I raised in a question some time ago and I asked them to look into it and I am glad they should be losing no time in doing it. Let me say I disagree entirely with the arguments that have been put in this House as to why

we should retain, in fact, the right to vote for Gibraltar and let me say that it seems to me incredible that it should have escaped the notice of Members who have raised objections on this side of the House that we cannot distinguish between Gibraltarians, British Citizens, British Overseas Citizens and all the rest including Citizens of the Irish Republic who might be living in Spain and giving them the right to vote and when I raised the question in the House I said that the theoretical right that existed with a closed frontier was meaningless but with an open frontier and with the enormous increase that there had been of non-Spanish residents in that area, we face a hypothetical situation where those people could exercise their legal right to register in Gibraltar and would in fact outnumber the Gibraltarians and I said that in the House and I said the Government must weigh that and this is a very long time ago before the frontier was opened I raised it in the House and I asked the Government to look into it and, in fact, to do it even before the frontier was opened so that we could not be accused of doing things. I think it is wrong to delay, I know that people have got serious housing problems in Gibraltar but I can tell the House that my personal knowledge is that there are already very many people living in Spain who are not in fact Gibraltarians but people from the UK who have been living here in private rented accommodation which we need to do something about like getting on with the Landlord and Tenant Ordinance, about which there are many important interests in Gibraltar who do not want anything done and that might stop people having to go next door to rent accommodation over there. That is an important area which we can tackle, Mr Speaker, so as to make the problem of housing less in Gibraltar but to my knowledge, the people that I know who have moved are the people who cannot afford £40 and £50 a week in Gibraltar and those people in the main are either Gibraltarians returned very recently to Gibraltar, because I think we have to be conscious that part of the problem that we face is that people have been returning from UK and UK Citizens have been coming to Gibraltar because they are free to do so under EEG rules since we have parity and since unemployment in UK has been shooting up and that puts pressure on accommodation in Gibraltar and it is bound to create an over-spill into the adjoining area which already houses many people who under the provisions of this law would have the right to vote in Gibraltar. I think the correct thing to do is to stop it now and I can see, in fact, an even more serious situation developing if we have in fact rights given to UK Citizens who live in the Campo Area and who work in Gibraltar which Spanish Citizens that in a future date might be next door neighbours do not enjoy and I can see pressure building up in that direction so I have got no hesitation in saying that I fully support the measures and I do not think it is premature.

HON A J CANEPA:

If the Hon Member would give way. Mr Speaker, I have no problem about reconciling the question of GEC advertising with the stand that I take on this Bill because I deplore completely the amount of advertising that there is on GEC television of Spanish products. As Minister for Trade I take a very, very hard line on the question of the need to protect our economy but where I do not have any conflict is in the exercise of any professional function, I have no conflict that might also contribute to undermine the economy of the territory and I do not think that every Member in this House can say the same thing.

HON P J ISOLA:

Can the Minister clarify that statement?

HON A J CANEPA:

Yes, Mr Speaker, I will clarify. There is a piece of legislation being brought to the House, a Bill to amend the Control of Employment Ordinance which the Hon Member in his professional capacity has been one of the main instigators in making it necessary having regard to the professional advice that he has been giving certain companies. That is what I am getting at.

HON P J ISOLA:

Will the Hon Minister look to his right to the Chief Minister and then look to his left to the Minister for Labour and Social Security and enquire why certain other amendments have not been made to the Control of Employment Bill on which I will address the House when the Bill comes to discussion and of which they must be aware, having been involved.

HON J BOSSANO:

I think I had given way, Mr Speaker, actually. I think we should, in fact, strictly limit ourselves to the general principles of extending the provisions of the Elections Ordinance and if I may just come to the point I have not touched on, on the question of postal ballot. On the postal ballot I am not very worried about that although it is not something that, quite frankly, I have given any thought or my party has given any thought to because as I understand it the proportions that are likely to be affected are very small and it is only for people who are temporarily away and not people who in fact give up their residence so I think that if we consider that for example, some 3,000 people resident and able to vote choose not to, we may be talking perhaps of 50 or 100 so I do not think it involves a great issue of principle, so since I am interested in getting the other and far more fundamental issue through, I myself am willing to support that part of it although in fact I have to say that it is not a matter on which I have a policy directive.

HON M K FEATHERSTONE:

Sir, the principle that has always been evinced in Britain for being enfranchised is that you should reside in the area where you have the right to vote and this is obvious that it must be applicable to Gibraltar. If we are going to give permission to people albeit working in Gibraltar but residing across the way the right to vote, then the next step will be that if the person is a Gibraltarian but works in Spain he should have the right to vote and gradually we are going to widen our enfranchisement to all sorts of people. We would have, as the Hon Mr Bossano said, all the British residents in the Costa del Sol being able to vote in Gibraltar on the basis that perhaps they have some business interests here or what have you. The obvious and correct solution to my mind is the one the Bill envisages that to be enfranchised in Gibraltar you must have right of residence here and reside here.

MR SPEAKER:

If there are no other contributors I will ask the Chief Minister to reply. Does the Chief Minister wish to reply?

HON CHIEF MINISTER:

Oh yes. I am really surprised by some of the things that come from the other side. This concern about people living in Spain from the Leader of the defunct Integration With Britain Party and so on and trying to give rights to people living in Spain is really most extraordinary. Let me say, first of all, that the question of postal voting has been investigated by three very senior civil servants led by the Clerk of the House in order to ensure that the procedures and regulations follow as strictly as possible those of the United Kingdom and I have no hesitation in saying that I am prepared to send copies of the Regulations to Members opposite before they are implemented. Let me say something else. People jump to conclusions and say things without thinking really what they are talking about. I am referring to the Hon and Gallant Major Peliza. The next election will be fought on the register which is already there and it has non-residential qualifications there because we are not going to have because of the difference in the dates of the election and the period in which it is done, is not going to have a new electoral register because it costs a lot of money but we are concerned in having a supplement to the register in order to bring it up-to-date particularly to have young people in and it is important to get this Bill through all its stages in order that people can be registered properly and they can have the right to vote. The claim for this came from students to me personally and to others of my party and also other parties. I do not say every day: "People of my party", but I have a Party, I have had one for forty years. The Hon Member has only had one when by omission Mr Xiberras went away. I have got a Party and my Party has also got policies and we have been approached by students. Students show their concern when they are here and they show interest

in politics and then find frustrated when at the time when they are most interested - and I do not care for whom they are going to vote - but at the time when they are most interested in their lives, when they are taking an interest when they are already eighteen when they think they have qualified and fortunately for them they are sent away on higher studies and scholarships. These are the people that germinated this idea of postal voting. But when you have an idea about how to do a thing you do it well all along the line and if you allow people who are temporarily in England studying for a profession to vote why should you not allow somebody who is for health reasons in England as a sponsored patient or because he is undergoing treatment, why shouldn't you allow an officer of the Government or anybody else whose duty takes him to England to live there six months and it happens to be at a time when there is a general election?

HON P J ISOLA:

If the Hon Member will give way.

HON CHIEF MINISTER:

No, I am not going to give way. I am replying and you could have spoken during the debate. These are the considerations that have been taken into account, no question of political expediency, this does not alter the thing. The register is there and if there are people with non-residential qualifications in the register there they so remain and unless they have died, they will be able to vote and they can even vote if they happen to be in England by postal vote if we pass this law. This is a straightforward, progressive piece of legislation giving rights which are now being sought in England as a result of the unexpected summer election in the United Kingdom. In England, people on holiday cannot register to vote by post, they can get proxy vote but we do not want proxy votes in Gibraltar certainly not for the time being, and what we are doing is classifying the people who are entitled to this vote by putting the category. First of all, they must be in the register otherwise they cannot vote, and after that they have to have the qualifications to which I have referred in my note, that is, they are studying, for health reasons or for purposes connected with their employment, but once you register like that you cannot vote here, you have got to vote by post. All postal votes are marked, as will be seen in the Regulations and the Returning Officer will keep all the votes in a special ballot box. First of all, you have got to get yourself in the register of postal voters by qualifying because you have satisfied the Electoral Registration Officer that you are entitled to it. We do not need proxy vote for another reason as we have what was done for the purposes of the referendum and which has now been a feature of our elections and that is we have an ambulant polling station and those who register as absentee voters due to illness can vote at home. That is an advantage. I would have thought that the essence of the result

of an election whatever that may be should be that there should be the widest participation of those who are on the register. Because later on percentages of voters are taken as a reflection of support of parties and it becomes a nonsense. They said that one million people did not vote in the last elections in the UK because they happened to be on holiday. That is the reason for the postal vote. The reason why we need to pass this through all its stages at this meeting is because in the supplement to the register we want to be able to include people and people who are probably now qualifying to get to the age of eighteen and there are already people in the register who have qualified subsequent to the preparation of the register, and now the projection in the register will be such that if on the date of the election you are eighteen because the date of birth is on the register then you can vote. If you do not do that in the supplement, people who are going to go away, say, in September on a scholarship and are not in the register now will not be able to vote. That is the reason why it is being done this way. No one who may have the right to vote now is being deprived of any right to vote because there will be no new register of electors before the next elections, whenever that may be, and that cannot be later than the 28th of May, there is not going to be a new register before then but there is going to be a supplement. There are many people who have reached the age since the register was prepared and it is proper that they should be included in the supplement. It is a very simple piece of legislation, it follows the legislation in the United Kingdom except that we have allowed those on holidays who register before they go on holiday, and we have taken away for the future the question of the non-residential qualification. Because it is not going to affect anybody in the register now, I do not think that any great evil is being done now because in fact if there has to be a register, a new register and we left the law untouched, it would be impossible for the Registration Officer to define the people who live across the way as to whether they are entitled because the law says that those living in the British Vice Consular district of Algeciras and La Linea and there is no longer a British Vice-Consul in the district of La Linea and that of Algeciras is very difficult to define as it is now, so really it is an anachronism. The consular changes that that have been made in the administration in Spain, apart from anything else that has happened in Spain, makes the law as it is an anachronism and of course if in the fullness of time there was relations with Spain such as that the people could vote there and this House wants to give them a vote, well, the House then dealing with it, in an ideal situation, perhaps this might be, perhaps there might be a possibility. It is not going to affect anybody now who has got the right and therefore we have to get this through but I appreciate that the regulations are of interest to Members opposite and I undertake not to enforce the regulations without giving the Opposition an opportunity to comment on them but I will advance to them that they are very boring reading. They are the absolute reproduction mutatis mutandis of what is required in Gibraltar which is taken from the English legislation and which has been prepared with no political view, we just left it to those who know

about these matters who have done an excellent job and to whom I would like to pay tribute. I will undertake that the regulations will not be enforced without giving Members opposite a copy and I am prepared, if necessary, to debate any point which they might have which we would or would not meet. I commend the Bill to the House.

HON A. T. LODDO:

If the Hon Member will give way. Did I hear him correctly when he said that if you have an overseas vote and you happen to be in Gibraltar at the time you will not be able to vote?

HON CHIEF MINISTER:

You would be voting but by postal vote, you can post your own vote. What you would not be able to do is go to the Polling Station and vote once you are registered as a postal voter.

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

HON CHIEF MINISTER:

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

This was agreed to.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) ORDINANCE, 1983

HON CHIEF MINISTER:

I very rarely have two Bills in my name, Mr Speaker, and this is one which does not give me particular pleasure but I have to do it. I have the honour to move that a Bill for an Ordinance to amend the Specified Offices (Salaries and Allowances) Ordinance, 1979, be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Mr Speaker, I now have the honour to move that the Bill be read a second time. As the House is no doubt aware Section 68 of the Constitution provides that any change in the salaries of servants in Specified Offices be prescribed by an Ordinance of the House of Assembly. The offices concerned are those of Governor, Chief Justice, Deputy Governor, Attorney-General, Financial and Development Secretary, Principal Auditor and the Commissioner of Police. The salaries and in certain cases the allowances payable to these officers are charges on the Consolidated Fund and are contained in the Specified Offices (Salaries and Allowances) Ordinance, 1979. As Members will recall, the Ordinance was last amended in October, 1982, to provide for those officers in respect of the salaries review agreed for all Government employees on the 1st of July, 1981. After very long negotiations with the IPCS, agreement has been reached on the salaries for senior grades and the object of this Bill which we did not want to bring earlier until agreement had been reached with regard to the others, is to enable the specified officers to receive the new salaries agreed with effect from the 1st of July, 1982. In respect of the Commissioner of Police because his salary was concerned though he was not a member but had a relation to the negotiation of the senior grades, the matter has been solved in the situation which makes it necessary to make provision for July, 1981, and July, 1982. 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 MAJOR R J PELIZA:

Yes, Mr Speaker, I would like to know why the Governor's salary is £20,000 which is a couple of thousand pounds less than the Chief Justice, the Deputy Governor, the Attorney-General and the Financial and Development Secretary and even if we include the £3,600 he gets from allowances which makes it £23,600, he is getting £1 less than the Chief Justice, and £1,601 less than the Deputy Governor and I wonder whether the Chief Minister could explain that.

HON CHIEF MINISTER:

Yes. There are two points arising out of that. First of all, in all territories an agreement is made when the Governor is appointed as to the salary to be received and he is not a member of the union and his salary is not subject to negotiation, it is subject to review on re-appointment or perhaps after a period. The others of course are the subject of parity and in fact all these figures are parity figures against the equivalent on which the officers have been analogued. There is one small but interesting detail which is that under the provisions of the Constitution the Governor does not pay income tax.

HON P J ISOLA:

Mr Speaker, I thought I heard the Hon and Learned Chief Minister say when he was moving the First Reading that it did not give him pleasure to move this Bill because certainly as far as we are concerned we do believe in top salaries being paid to top people provided we have top management and certainly we have no reason to doubt the efficiency of the gentlemen for whom we are being asked to vote salaries but we do believe very much that people on the top salary scale should exercise their responsibilities and exert top management qualifications because this has been shown time and time again, unless you pay your top people properly and they respond, the whole of the edifice collapses. The problem arises in other areas of the Government and we know of some where top salaries are being paid and not necessarily top results are being obtained. Mr Speaker, we support this Bill completely but in Committee Stage we would like to ask one or two questions, and I won't ask it now, but give notice, on the changes in salary of the Commissioner of Police. I am not quite sure why we have three years thrown into this or why it has taken three years to come to this assessment or whatever and of course I need not remind the House that there has been in a normal departmental vote in normal estimates, we would reduce a pound in respect of a department that we are unhappy about and we are not going to do that with the Commissioner of Police but Members will realise that we have been in this House quite critical about the way certain laws have been applied in Gibraltar and one of them has been litter laws and I think it is just the appropriate time to mention in connection with this Bill our concern at this continuing situation. We do not propose, Mr Speaker, to move the reduction of one pound in the schedule of the Bill but we feel we must mention. I would like an explanation, it may be made in the reply, as to why we are voting something like three years retrospection with the Commissioner of Police. Have there been difficulties or having now done this will there now be no problems in the future with that particular salary because there does not seem to be with the others mentioned in the schedule? Mr Speaker, we support the Bill.

HON CHIEF MINISTER:

Mr Speaker, when I said I did not like it it is because it affects people with whom one is working every day and they are mentioned by name, that is what I meant by that. If it were in the general estimates I would not have made that remark and it was not a serious remark to be taken in that way. Let me tell Hon Members also that pending the very long negotiations which is reflected in the Commissioner of Police, because the year before last whilst the negotiations were going on, IPCS agreed to receive the year's increase, which I think was 4% or 5%, and it was then that that increase was reflected in Hon Member's allowances that this year whilst the negotiations have been pending I did not think it proper that the 4% or 5% which under the system of review of allowances is linked to salaries

would have been due from 1st July last year, it is not until IPCS had come to terms with the Government that I thought that Hon Members should receive the increased allowances so that is being done now. I refer to that in order to stress the fact that the negotiations with IPCS have been going on for about three years and it is because they have been going on for about three years and because the Commissioner of Police is one of the only persons concerned affected by the IPCS review though he is not a member of the IPCS, that his salary has been stuck until final agreement was reached with the senior grades and therefore the agreement reached with the senior grades which also covers a period, will be reflected in the allocation made for the review of salaries but in the case of the Commissioner of Police because he is one of the specified officers and the obvious reason for that is that these people must be separate in order that they should not be subject to pressure from politicians, that is really the reason why they are specified offices, that the Commissioner of Police has had to have a longstanding claim pending whilst the senior grades to which he did not belong were negotiated because really one was linked with the other. Of course, we have no hesitation either of paying top salaries to top people and nothing that I have said here in any way reflects on any of the officers. Whatever view one may take about whether litter is reported or not I think is beyond the point, we have a Police Force and we have a Commissioner and we have to pay him.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained.

HON CHIEF MINISTER:

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

This was agreed to.

THE TRADE LICENSING (AMENDMENT) (NO 2) ORDINANCE, 1983

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, at present the business of building contracting is a scheduled business under the provisions of the Trade Licensing Ordinance so that no person can carry on such business unless he is a holder of a licence. The Trade Licensing Authority have also considered applications from time to time from persons who sought to engage in the building industry allied trades, such as painting and decorating, under this same item. Recently, Mr Speaker, in a case that came before the Courts the Courts have ruled that although painting and decorating fall within the definition of building contracting, the reverse is not the case and that the Trade Licensing Ordinance does not apply to the trade of painters and decorators. It has therefore become necessary to strengthen the legislation particularly to ensure that firms not resident in Gibraltar will be required to apply for a trade licence if they propose to engage in the building industry's allied trade and this Bill so provides by amending the second schedule by adding the following new items: carpentry, decorating, joinery, painting, plumbing and woodwork. The Bill, Mr Speaker, which it is intended should come into operation on the 1st August, 1983, includes the usual transitional provisions whereby any person who has been carrying on business before the commencement of the legislation will be so licenced if an application for a licence is submitted within three months of the commencement of the Ordinance. Mr Speaker, I have the honour to 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 W T SCOTT:

Mr Speaker, although there is a distinction, rightly so, between the building contractors and so forth and the allied trades the Minister has mentioned, I note here that three distinct words have been used to describe one section, that is, carpentry, joinery and woodwork. But on the plumbing section I see, and perhaps the Minister in reply can mention this, whether in fact the allied trades to plumbing which are heating, ventilation and air conditioning, are already included in the schedule.

HON A J CANEPA:

I will have to check, Mr Speaker, on the enactments that have been made from time to time whether those are included. I do not think that they are, I do not think so.

HON W T SCOTT:

In which case, Mr Speaker, it seems to me that they should be included. If one is going to include all these to encompass the building trades, generally, heating and ventilation and perhaps air conditioning should be included as well.

MR SPEAKER:

May I perhaps suggest that carpentry, joinery and woodwork should be one.

HON W T SCOTT:

Not really, Mr Speaker, I am saying as there are three distinctions in the general trade between carpentry, joinery and woodwork and that distinction has been made, the distinction of plumbing and plumbing takes in all mechanical services, generally, has not been made with heating, ventilation and air conditioning.

HON A J HAYNES:

Mr Speaker, I do not think I have an interest, it was in fact my application which was answered in the ruling which held that painting and decorating was not part of the building licence and in that proviso I would like to make some further comments. I am not sure whether this Bill will result in a limited building contracting licence or a specific licence to do these works and I am not sure whether in the case of those who in the past have applied for painting and decorating licences and have had those licences approved and in fact they have been issued a building contractors licence whether they will be amended and I am not sure whether all the aspects that are contained in the building or construction industry which go into electrical installations and so forth are not going to find themselves in the same category, ie you can be an electrician without being a building contractor and so forth. Has Government gone through all the various possibilities or permutations of a sub-divided building contractor's licence? Is it their proposal to do that or are they only making amendments as and when problems arise?

HON MAJOR R J PELIZA:

Mr Speaker, I would like to know and perhaps the Minister can explain, whether under this Ordinance individuals who accompany purchases made outside or who come in order to follow up purchases made outside Gibraltar such as installing durables of one description or another, would be caught by the Ordinance and if they are, how it is possible to implement this since perhaps they are individuals coming in for a day and coming back again or whether in fact the person who carries out the purchase is employing a person who is not authorised to work in Gibraltar and therefore whether in any way that person is

committing an offence? What I am driving at is if the purpose of the Ordinance is to a large extent to protect our economy in one way or another and protect labour in Gibraltar, it is clear to me that in that respect there is a loophole in that there are local companies which are paying certain rates of pay to carry out that sort of work and therefore we are meeting, or those companies are meeting with unfair competition from outside Gibraltar which is to the detriment of trade in Gibraltar and also to the detriment of labour in Gibraltar and I wonder if the Minister when he finally addresses the House will explain if that is covered or what the position is in that respect.

HON P J ISOLA:

Can I ask, again, for this point to be dealt with in the reply? The businesses that have been added, the carpentry, decorating, etc, whereas a building contractor it can hardly be said that a building contract can be just one individual, the business of painting can be carried on by one individual who paints part-time, for example, who has got full-time employment but actually paints part-time and contracts himself to paint part-time, is it intended that that individual should require to hold a licence? I seem to recall in the original Ordinance that in the case of self-employed persons, people working on their own, a licence was not required but we did not have businesses then or as many businesses added to the schedule so that if a carpenter, for example, does carpentry work in his spare time at a fee or at a price, is he carrying on a business and is he therefore required to hold a licence? I can see this could happen with a carpenter, with a painter and a plumber.

HON A J CANEPA:

I will take the last point first, Mr Speaker. This was one of the matters that caused us most difficulty in Council of Ministers when we were discussing the proposed legislation and in fact which has led to the matter coming to the House far later than had been intended to be the case and it was really the decision of the Court which triggered the need to bring the legislation to the House notwithstanding the fact that we had not resolved entirely satisfactorily the point made by the Hon the Leader of the Opposition, in other words, there are now people doing part-time work, plumbing, carpentry and so forth, they do not have a trade licence. What is the position going to be in the future? I think the position, and I will confess quite frankly to the House, is going to be in the future that enforcement is no easy matter and therefore unless you had an army of inspectors doing around Gibraltar I do not see how you can get at the individual who does three casual jobs. He has done them all his life, he will continue to do so and I think that that is a practical fact of life that we have to live with.

HON P J ISOLA:

Could I ask the Minister to give way? Is it the intention that that individual should be caught by this legislation, is that the intention? Is it the intention of Government that any individual doing some part-time work requires a licence?

HON A J CANEPA:

Technically yes, he ought to apply for a trade licence. In practice I do not think it will be possible to follow that up.

MR SPEAKER:

May I ask a question because I am slightly confused? Since it has been held that painting is not building contracting and therefore requires a licence, in the inverse does it mean that a person who holds a building contracting licence will have to have an extra licence for painting?

HON A J CANEPA:

I think that was the point made by the Hon Mr Haynes. I think what happens I am informed at the moment is that building contracting licences have been issued, say, which are limited to painting and which have been limited to plumbing, that is I think what will be the situation, so really the individual will be able to prove satisfactorily that he was engaged in the business of plumbing or in the business of carpentry and therefore he will have no difficulty under the transitional provisions in getting his trade licence. The question of further subdivision of plumbing I do not think is straightforward. I think it is difficult to pretend that we can produce exhaustive lists in the schedule and what happens is that I bring this legislation to the House based, by and large, on the experience of the workings of the Trade Licensing Authority and a stage is reached when it is desirable to amend legislation in order to tighten up or for some other reason as the case may be. I think it is invidious to subdivide plumbing any further at this stage. It could well be the case that in the light of experience of the application of the new legislation we may have to come back to the House but I am not being advised by the Trade Licensing Authority that we should do that at this stage, it is a matter I think that we have to keep under review. I think the situation is monitored by the Trade Licensing Authority.

HON A J HAYNES:

Would the Minister consider something like a Handyman which would cover the Jack-of-all-trades who comes round to do minor jobs?

HON A J CANEPA:

I do not think we want to be unduly restrictive, Mr Speaker, I think a handyman at the moment is a handyman and he does certain works, and good luck to him, without much difficulty. I do not envisage that there will be much difficulty in the future.

HON A J HAYNES:

I appreciate the Minister's interest and concern which we share that we do not want to create a clutter of legislation but having said that, this legislation could cause difficulties to those handymen and, regrettably, a large number that will not avail themselves of the opportunity of registering within the three months period and perhaps at least the Minister will consider giving this Bill considerable publicity to ensure that as many will get to know about it as possible.

HON A J CANEPA:

I am advised that there will not be difficulties for people in that position. That brings me, I think, to the point which the Hon Major Peliza made about people who are coming in from across the border who are doing certain work or are providing a service, some of that is the subject of another Bill on the Agenda later on. I am fairly relaxed at the moment about the situation where because we have been relaxed about certain categories in the past before the opening of the frontier, because we were quite relaxed about let us say, that a lift, for instance, has been installed in a certain building in Gibraltar by a firm from outside Gibraltar and that the maintenance of that lift requires that specialists should come in for a day or two in order to service that lift. My understanding is that the Department of Labour has never put any obstacles in the way of that and I do not think that we should. I think that we have to adopt a reasonably relaxed approach also to a situation where individuals are purchasing goods in Spain, for instance, furniture. They are making arrangements for the furniture to be shipped to Gibraltar and perhaps they are calling upon the services of those suppliers who come to Gibraltar for the day to install that furniture. I am not entirely happy, I am not going to pretend that I would not like to see the position regularised as far as is possible because I do not like to see people working in Gibraltar who are not paying insurance, who are not paying income tax and what have you, but I think that it is unlikely that we would be able to close all the loopholes even if we were to be agreed that it was essential and eminently desirable that we should do so, and I go back again to the army of inspectors. There are loopholes that we will not close. You will not be able to stop a hairdresser from coming across the border for the day and doing business within the private homes of individuals. I think we have to live with that, it is an aspect of what in the United Kingdom is called the black economy and I think that it is just not possible either under

the Trade Licensing Ordinance, certainly not under the Trade Licensing Ordinance because we do not have many enforcement officers. In the case of the Control of Employment Ordinance we are strengthening the labour inspectorate at the moment and there there are steps that have to be taken but I do not think that I can pretend and I hope that Hon Members will agree that we cannot get a completely watertight situation.

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 should be taken tomorrow.

THE PUBLIC HEALTH (AMENDMENT) (NO 2) ORDINANCE, 1983

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance (Chapter 131) 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 now read a second time. This Bill has been forced upon us by circumstances which are absolutely out of our control insofar that we are suffering as is the whole of this region of the Mediterranean, from a very severe drought, in fact, this is the third year of drought in succession. The rainfall over the past winter was one of the lowest on record and this has resulted in a number of features which has made our water situation become very precarious. The first feature of course is that with less rainfall we collected less water on the catchments and therefore less storage in the reservoirs. The second feature is that with less rainfall the water falling on the actual ground level has been less and therefore the water in the subsoil is less and our wells are producing less than they normally produce in a usual year, so much so that the yield from the wells has been reduced to about 50% of what we are accustomed to get from them. The third feature has been that owing to the lack of rain during the winter, the distillers were needed to be used throughout the winter period and this has meant that they have had to come into the period of servicing during the summer when normally we try to reserve for production rather than for servicing and maintenance. The fourth feature is that one of our suppliers from the neighbourhood is finding difficulty in supplying sufficient water to its

own area and has consequently restricted the amount of water that they are willing to export to Gibraltar. The normal amount of water that we were importing from this source was some 6,000 to 7,000 tons a week and it has been reduced to between 1,500 to 2,000 tons a week and when I tell you that our consumption in summer time is somewhere between 13,000 and 15,000 tons a week, you can see that there is a very considerable shortfall. The only way that we have seemed to get over the precarious water situation, as Members must obviously know from comments in the press, is by importing water from the United Kingdom and we have already brought a full tanker which we are sharing with the PSA and a second half is due to arrive within a few days. Later on we shall be asking for extra money in supplementary estimates but I would warn the House that I do not think this is the end of the position, we are going to have to import a further amount of water which will in due course create a further demand for financing. As has happened in previous years, when the water situation was precarious we were faced with a decision either to ration water or to keep up supplies of water albeit we tried to ask people to use less water but I am afraid that in most instances our exhortations fall upon deaf ears because the consumption has not dropped to any extent in spite of television and press comments that water is in short supply and should be used with the minimum needs possible. The imported water, as always occurs, is going to cost us considerably over the marginal cost of water, in fact, it is working out to somewhere around £8.50 per ton when the marginal rate is around £4.50 per ton and so as not to throw the cost of this imported water on to the Consolidated Fund to request later on in the year a much greater subsidy for the water, the attitude has been taken as was taken last year, I believe, to put the cost of the extra charge of the water back to the consumer. Therefore the object of this Bill is to put a surcharge into effect for three months of 6p per 100 litres which is the unit of potable water for the next three months billing so that the extra above the marginal rate of the cost of the imported water can be recouped. It is intended that the subsidy to hotels will be increased by the same amount so that the hotel trade will not suffer from the increase as an effort to help tourism. I commend the Bill to the House, Sir.

MR SPEAKER:

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

HON W T SCOTT:

Yes, Mr Speaker. I think in principle it is necessary and we agree to an increase having regard to the circumstances that led to the importation. I am a little bit foxed at what the Minister said was the average rate of consumption at this time of the year is between 13,000 and 15,000 tons per week. And if we are importing 20,000 tons on two occasions, on each

occasion it would mean basically at the very most 1½ weeks consumption and that means on both half tankerfulls we really only have enough for three weeks. Is the Minister satisfied that with 40,000 tons all told which is basically only three weeks supply, we will have enough water till the end of the summer period, that is, the end of October?

HON MAJOR R J PELIZA:

Mr Speaker, perhaps I should, since I am always critical of the Government, I should on this occasion pat them on the back for taking into consideration the question of the tourist trade in Gibraltar and realising that if there had been an added increase to the water it would have made their life a little more difficult and in the end I think counter-productive for Gibraltar so I welcome that. I should also say that we should feel very proud in Gibraltar that notwithstanding the dryness in the area we are going to carry on without any rationing. In that respect I think we can consider ourselves very lucky and on this occasion I congratulate the Government.

HON H J ZAMMITT:

Mr Speaker, as a matter of tribute to the Public Works Department I think I should make it known that the "Camberra" called at Gibraltar recently and on all her ports of call between Southampton and wherever she was going which was Spain, Greece and Yugoslavia, none of those ports were prepared to give the liner any water at all and it was quite ironic that this dry Rock of Gibraltar was able to supply them with double ration of what the ship required and I would like to pay tribute to Mr Maurice Featherstone who did sterling work to ensure that we did not lose that liner and no doubt this will ensure that more liners call at Gibraltar. Today Europe is not looking at the cost of water, it is looking at water at whatever cost. We are totally aware that in the neighbouring vicinity tourists are subjected to water supplies being cut off at three in the afternoon so I think it is preferable to pay for somewhat more expensive water and the assurance of the continued supply as we are getting in Gibraltar than not to be supplied with any water at all. I think the shipping fraternity and tourists will not mind paying that little bit extra if water is assured.

MR SPEAKER:

Does the Minister wish to reply?

HON M K FEATHERSTONE:

Yes, Sir. I am very grateful for the kind words not only from my colleague but from the Hon Major Peliza. It is rather a point of pride with us that we are able to supply water albeit at high cost. Regarding the point the Hon Mr Scott made, this is a very valid point but of course it is not that the tanker bringing in 20,000 tons gives as simply 1½ weeks supply because

we are also getting water from the other sources. It is the difference between the amount we can produce ourselves and the amount we need that is taken from the tanker supply. And the amount we can produce ourselves varies between 9,000 tons if one distiller is working, to some 12,500 to 13,000 tons if both distillers are working, so the draw down is somewhere around 2,000 tons per week and therefore we get eight to ten weeks from each tanker. We feel that our projections for the future should be adequate with the amounts of water we are bringing in if and this is a big IF, if the rains come in mid-October or early November as we hope they will.

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 give notice that the Committee Stage and Third Reading be taken at a later stage in the proceedings.

This was agreed to.

THE NON-CONTRIBUTORY SOCIAL INSURANCE BENEFIT AND UNEMPLOYMENT (AMENDMENT) ORDINANCE, 1983

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance (Cap 113) be read a first time.

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

SECOND READING

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be now read a second time. Sir, the purpose of this Bill is to be able to contract the time period where the unemployment benefits are paid out. Under the existing regulations you can become employed today and you are entitled to thirteen weeks of unemployment benefit. Those thirteen weeks you can stretch almost forever and the idea is that if we have this amendment it will not go more than twenty-six weeks from his last contribution because otherwise we never know what the true figure of unemployment is if the chap does not report. He can report one month or one week and he gets his benefit that week and he goes away for three months and comes back later and gets his second week and he can carry on ad infinitum and this is one way to be able to find out what the real figure of unemployment is and we will have more realistic unemployment figures.

HON A J HAYNES:

If the Hon Member will give way. He says that the thirteen weeks can be stretched out indefinitely. Does that mean that if you want, you can take one week unemployment benefit this week and

MR SPEAKER:

No, with respect. We have not even proposed the question yet.

HON A J HAYNES:

The Minister has stated that at the moment unemployment benefit entitles someone who is entitled to it to stretch out the thirteen weeks for a longer period. Can the Minister explain how?

MR SPEAKER:

Fair enough.

HON MAJOR F J DELLIPIANI:

Well, you see, to be paid your unemployment benefit, what you have to do if you are unemployed and you have a number of contributions necessary for you to qualify for that unemployment benefit, is that you have to go to the Department of Labour and register yourself as unemployed. You have to be available for work and you are paid. You are then paid for one week, your first payment. Now, if you do not go the following week you are not paid because you have not made yourself available for employment. You can then go five months later and receive your second payment. Since you have not made yourself available during that period you have not got paid but you are still entitled to thirteen weeks of payment so you can go on ad infinitum until you exhaust the thirteen payments. When there is a job which we can offer you, you are not here to be offered that job because you have not registered that week. We are trying to control it and give it a little bit of leeway from thirteen weeks to twenty-six weeks.

MR SPEAKER:

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

HON W T SCOTT:

Yes, Mr Speaker, I think we shall be voting for this measure because it is commensurate, in fact, with what we, on our side of the House have been saying, certainly since the unemployment figures were changed in the way that they were compiled. I think it was late last year. We felt that the new method of

compilation has never ever reflected the true picture of unemployment in Gibraltar. I think that if we are going to continue the limitation to the thirteen weeks, and rightly so, it should only be in the manner presented by this Bill. We shall be voting for that measure and in doing so, I think the Minister might not perhaps agree, we have been making an effort on this side of the House since the new tables first came up, I think it was in November or December of last year, to make them a little bit more realistic.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I welcome the support from Mr Scott and I can assure him, I think that the record stands on its own, that I always give credit where credit is due. I am happy to say that despite the occasional repatee between us, we do have a good relationship and I do listen to the suggestions that Mr Scott does make on labour. If I can make use of them and I find them useful I usually do. I am always happy to cooperate with suggestions from the other side when I can put them to good use. I therefore commend this 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 MAJOR F J DELLIPIANI:

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.

THE LAW OF PROPERTY (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Law of Property Ordinance (Chapter 85) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. The rule against accumulation is a matter with which the lawyer Members of the House will be familiar enough. I should like to explain it briefly, however, for the benefit of anyone else who may not be familiar with it. When a trust is created, the law limits the period for which the trust may

run and that is known as the rule against perpetuity. We cannot have an indefinite trust. The law also limits the period during which you can accumulate the income of the trust without having to distribute it to the beneficiaries and that is what is known as the rule against accumulation which the present Bill relates to and which in Gibraltar is dealt with by Section 26 of the Law of Property Ordinance. Under that section, Mr Speaker, it is not permissible to allow the settlement or disposal of any property in such a way that the income shall be accumulated wholly or partially for the purchase of land because that is how it is so expressed beyond the minorities of the beneficiaries under the trust. In England the law is different, property may be settled or disposed of in such a way as to allow accumulation for any one of a number of alternative periods, for example, twenty-one years from the gift under the said law by the person who establishes the trust. The purpose of this Bill, Mr Speaker, is to bring the Gibraltar law into line with the United Kingdom law, subject to one variation which I will mention specifically. In England one of the permissible options is a period that does not exceed twenty-one years from the date that this provision was made in Gibraltar in this Bill we propose to differ slightly from the United Kingdom law in that respect, by substituting a period of forty years for twenty-one years. This, I believe, will make it a little more attractive. That is the only respect in which it differs from the present laws in England as to the rule against accumulation. In all other respects the periods remain the same. Mr Speaker, the Bill is the result of proposals that have been put forward by the group known as the Finance Centre Group in Gibraltar, in order to make Gibraltar a more competitive place for the establishment and for the attraction of trust funds. It is believed that major banks would consider setting up trust operations in Gibraltar or more readily set them up, if the accumulation period is so extended. The proposals have been the subject of, as I say, representations by the Finance Centre Group, Mr Speaker, and the Bar has also, in fact, joined them in supporting their proposals. Mr Speaker, this is a technical subject and it is not proposed to take the Bill through all its stages at this present meeting of the House. I will be asking at the Committee Stage for it to be dealt with at a later meeting of the House so that all Members will have full time to study the Bill. 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 MAJOR R J PELIZA:

Mr Speaker, I think that anything which would encourage people to make use of our financial centre is welcome, as far as I am concerned. I would just like to ask the Attorney-General, he says there is a slight difference between our law and that in

England where the accumulation is twenty-one years and in Gibraltar it is going to be forty years. Well, there is a hell of a difference there between twenty-one and forty years. I wonder whether when he winds up he would like to explain what are the benefits for extending this from twenty-one to forty years?

MR SPEAKER:

Does any other Member wish to contribute to the debate? Does the Hon and Learned Attorney-General wish to reply?

HON ATTORNEY-GENERAL:

Mr Speaker, I would like to reply to the question put by my Hon Friend opposite. One of the reasons that trustees are attracted to a territory is, in my understanding, that if you are allowed to accumulate funds over a lengthy period of time, you can minimise the effects of taxation liability. Therefore, the longer the period of time, the more attractive it may be for taxation purposes. That is why the longer period is desired here. I must confess, Mr Speaker, that trust law is not my forte but I have discussed this matter carefully with a person who is well versed in trust law and forty years is regarded, in my judgement, and I take the responsibility for that judgement, as an attractive period of time and one which will cause no harm. We have thought about the possible harm it could cause but can see none.

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

HON ATTORNEY-GENERAL:

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

THE SUPPLEMENTARY APPROPRIATION (1983/84) ORDINANCE, 1983

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, 1984, 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(c) of the Constitution, a sum of £1,019,465 out of the Consolidated Fund. The purpose for which this sum is required is set out in Part I of the Schedule and detailed in the Consolidated Fund Schedule of Supplementary Estimates 1983/84. (No 1 of 1983/84) which was 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 £192,335 as set out in Part II of the Schedule to the Bill and detailed in the Improvement and Development Fund Schedule of Supplementary Estimates 1983/84 which was also tabled at the beginning of this meeting. The bulk of the expenditure on the current budget is to meet the cost of the running of the Waterport Power Station by Hawker Siddeley Power Engineering for the period 1st April, 1983, to the 30th September, 1983, and the cost of importing 20,000 tons of water by tanker from the United Kingdom. As the Hon Minister for Public Works has explained in introducing the Public Health (Amendment) (No 2) Ordinance, the cost of the importation of this water will be covered by a water surcharge of 6p per 100 litres subject to the approval by this House of the Bill now before it. The additional funds required in the Improvement and Development Fund are to meet the increase in the cost of the Waterport Power Station project and includes a re-vote of some £24,000. Doubtless, Mr Speaker, Hon Members will wish to probe the need for this expenditure at the Committee Stage. Sir I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, needless to say, we have a lot to say.

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.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance (Chapter 75) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that the Bill be read a second time. With the completion of the new air terminal, it is intended to have shops within it which will sell, from the departure lounge, easily carried items likely to be attractive to air travellers. To do this it is necessary to amend the Imports and Exports Ordinance to extend the range of goods that may be sold duty free from approved premises, licensed by the Financial and Development Secretary. In effect, because of the structure of this Ordinance which has two parts in the Schedule, it is necessary to make two amendments to section 31(B) of the principal Ordinance so that goods which are going to be sold from the duty free shops can come into Gibraltar and be placed in the duty free area without payment of duty and, secondly, that section 31(C) of the Ordinance which provides for duty free premises, will be extended to cover lighters, perfume, jewellery, clocks, watches, portable radios, cameras, photographic films, binoculars, pocket calculators, pens and pencils. I hope that this extension of the duty free zone will have the same effect as we have been having on drinks and cigarettes where we find that they are well below the prices in other duty shops and also even on aircraft. 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 MAJOR R J PELIZA:

Mr Speaker, I would like to say a couple of words. First of all I think that this is certainly a move in the right direction in the circumstances of Gibraltar now. It is obviously going to encourage visitors to Gibraltar to make added purchases which perhaps they would not have made in Gibraltar at all and therefore not only are we going to get the 5% duty that is going to be derived from those sales, but also I think the extra money that would come in from the profit left behind to the traders who obviously trade in these goods. But if we carry this to its logical conclusion and if what we do is

encourage visitors to buy things like this, I cannot see why more serious consideration should not be given to these items to be sold at the same ad valorem duty not only at the airport but all over town. I know that this will obviously have some effect in the revenue of the Government, the revenue derived from duty at the moment, but I would like to know and I do not expect the Financial and Development Secretary to tell me just like that offhand now what the effect would be on the income revenue if the same kind of rate of duty was applied to all these goods not only on those sold in duty free shops in the air terminal, but all over Gibraltar. I think this is a golden opportunity to capture some business from the visitors, let us hope that this summer we may be getting a few more coming in from Spain and that they might be attracted to buy small items like this which perhaps they can carry across without being stopped from doing so, some of them anyway, on the other side of the frontier and also I think from visitors from Morocco whose number I was glad to see from the last survey report, are increasing. Perhaps that will encourage more of them to come over. If the Financial Secretary cannot give me the answer now, I do not know whether he can or not, he might be able to let me know subsequently.

HON P J ISOLA:

I would support my Hon and Gallant Friend's suggestions. We have been saying from this side of the House ever since the harmful effects of the partial opening of the frontier have been building up in Gibraltar, we have been saying as a matter of general policy that action should be taken to try and make Gibraltar more competitive and one of the ways it can be done, it is an act of faith, admittedly, but one of the ways it can be done is by major reductions in import duties. I bow to my Hon and Gallant Friend's view that this is a step in the right direction, but I make this query, Mr Speaker. I think that the majority of people today coming into Gibraltar who can buy, are coming in on the aircraft. A few come in through the frontier but they are not allowed to buy or buy very little and if one allows duty free sales in this range of goods which after all is what is sold basically for the tourist trade in Main Street, are we not running the risk that tourists will be told when they arrive in Gibraltar: "Don't buy any of these items in the shops, get them duty free when you leave", like they did with drink and so forth, and I am a little concerned, Mr Speaker, that this, although it might add to the sales of the duty free shops at the airport, and I am only talking about that I won't question the question of ships, possibly, or export because that is a different story because they come in for three hours, but people who come here for a fortnight, look around the shops and then they are told: "Really, if you are going to buy yourself a watch you can have it much cheaper at the air terminal. If you want to buy any of these things, portable radios, jewellery, perfumes, buy them at the airport". I am concerned, Mr Speaker, that the net result of this, having regard to the fact that the vast majority of our tourists come in through the air terminal at least the tourists who can buy without

being told they are naughty boys at the frontier by the other customs authority, come through the airport. I agree entirely with the reduction of import duty and I agree entirely with the move and my own feeling is that this range of goods which are essentially touristic goods, we should make the cuts across the board in an act of faith and if we cannot do it because we cannot afford it because this, that and the other, I question whether it is wise to extend it to the air terminal because in doing that are we not in effect putting the people who sell these articles in the air terminal in a highly privileged position and putting every other shop in Main Street paying rates, electricity and having great difficulty in selling, are we not putting them in a highly disadvantageous position, and I would ask the Government to consider these points before taking this Bill through all its stages.

HON A J CANEPA:

Mr Speaker, just to answer the point about the further lowering of import duty. Quite frankly, I think Hon Members have got to realise that the Government has got a responsibility for the upkeep of certain services that we are providing for the community, that it is almost impossible I think to make cuts beyond the ones that we made prior to the budget. In any case the Opposition are constantly pressing us to expand our services, to improve our services, because the line that the Opposition as an Opposition has to take here in the House is to press the Government for more and more improvements and those improvements cost money. But at the same time, the Hon Members of the Opposition are pressing the Government to put at risk more and more revenue and the indication so far in the last three or four months is that our expectations on the collection of import duty are not going to be realised in spite of the measures adopted in the budget to make many of these items much more competitive in town. We have a responsibility, I think, for making a judgement as to how far we can go and what is the revenue that we can put at risk. And if by lowering duty to the level that the Hon Leader of the Opposition is suggesting, 5% in town for all these items, all that we find is, who are we going to sell it to? Because these items ought to be already attractive following the measures adopted in the budget, they should be attractive for visitors coming from Spain but the fact is that the number of visitors coming from Spain is much lower today than what it was three or six months ago, there are fewer Spaniards coming into Gibraltar so you are selling to fewer people. Who is going to adopt the attitude in Gibraltar of telling people: "Don't buy here in the shops, wait and buy on the way out". People just don't do that. When we go to the United Kingdom one does a certain amount of buying in town, you do not wait to do everything until you get back to the air terminal and in any case what we are getting from the duty free shops is of interest to the Government and to the economy because if you had a 5% throughout town those shops at the air terminal would have to close down, the Government would not collect rates, jobs would not be provided for the people there and the turnover of the suppliers of those goods would be

smaller so in any case there is a contraction in the economy in respect of the duty free shop. I think there is a limit, as I say, to how far the Government can go. We have the responsibility for exercising that judgement and I think we have to do it with a certain amount of caution because if we were to be bolder and the results were not to be what Hon Members opposite want, they would be the first ones to blame us for putting such revenue at risk and then for having to come to the House and make further inevitable cuts in the services that we are providing.

HON G T RESTANO:

The Hon Mr Canepa almost complains that the Opposition has been asking for improvements in the standards of the Government and he has also said that there is shortage of money and that they cannot be bolder. Of course there is shortage of money, Mr Speaker, there is £2m virtually which has been thrown away by Government mismanagement in the Electricity Department. If there had been good administration in that department there would have been another £1m to put back into the economy. What about Varyl Begg, Mr Speaker? Another £1m lost there. What efficiency is that? And then the sand chute, another fiasco. The Hon Mr Canepa certainly cannot put the onus of not being able to improve on these standards on the shortage of money. If there was more control by the Government on certain projects, if there had been better administration then we wouldn't find ourselves in the position we are today and Government would be able to well afford to follow this particular suggestion of my Hon Friend on my right.

MR SPEAKER:

If there are no other contributors I will call on the Hon the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I think that no one in Gibraltar would quarrel with the Hon and Gallant Member's suggestion that we should reduce import duties not necessarily to 5% but to 0% if we were going to have the through-put and the tourists are coming here so that we could meet Government expenditure in some other way but we are not getting it and until the Government can take a view that there is going to be the through-put then we cannot afford to reduce our import duties. Insofar as many of the items here are concerned, particularly the higher expensive range of goods, jewellery, clocks, watches, portable radios and cameras, you can at the moment, with some trouble get them free of import duty by getting them delivered to the airport but this is rather a humbug, people don't like to do it and to have them available easily at the airport would make it more attractive. I will, however, obtain the figures which the Hon and Gallant Member sought on what the loss in revenue would be but it will take a few days and I will let him have it.

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 A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Members abstained:

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 were absent from the Chamber:

The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A J Haynes

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 this meeting.

This was agreed to.

The House recessed at 7.10 pm.

THURSDAY THE 7TH JULY, 1983

The House resumed at 9.35 am.

MR SPEAKER:

We have the Control of Employment (Amendment) Ordinance; the Traffic (Amendment) Ordinance and the Matrimonial Causes (Amendment) Ordinance. Perhaps it might be advisable not to do the Matrimonial Causes Ordinance straightaway so I intend to call the Traffic Ordinance first.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the suspension of Standing Order 30 in respect of the Traffic (Amendment) (No 2) Ordinance, 1983.

HON MAJOR R J PELIZA:

Mr Speaker, I think in the absence of the Leader of the Opposition, I don't know why, but

MR SPEAKER:

The Leader of the Opposition is just coming in and I am going to say this now that you have brought up the question. We announced that the meeting was going to start at 9.15 am. If a Member is not here by 9.35 am then he cannot blame anyone but himself for not being here but we cannot in any manner or form, and I will say this very clearly, accommodate the time of sittings to the convenience of any particular Member.

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

- The Hon J Bossano
- The Hon A J Canepa
- The Hon 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 following Hon Members voted against:

- The Hon P J Isola
- The Hon A T Loddó
- The Hon Major R J Peliza
- The Hon G T Restano
- The Hon W. T. Scott

The following Hon Members were absent from the Chamber:

- The Hon I Abecasis
- The Hon Major F J Dellipiani
- The Hon A J Haynes
- The Hon R J Wallace

Standing Order 30 was accordingly suspended.

THE TRAFFIC (AMENDMENT) (NO 2) ORDINANCE, 1983

HON P J ISOLA:

Mr Speaker, may I ask why this has been taken out of order?

MR SPEAKER:

Most certainly, Mr Isola. The reason why this has been taken out of order, I stated at the beginning of this very morning, was to give a chance to both the Chief Minister and the Leader of the Opposition to be present when the Matrimonial Causes Ordinance was read because I felt you would be interested in being present.

HON M K FEATHERSTONE:

Sir, I beg 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 beg to move that the Bill be read a second time. Sir, this Bill devolves into two parts. As Members will be aware, for the last nine months or so the Government has been building at the old Slaughter House site a new motor vehicle testing shed. The intention of this motor vehicle testing shed is twofold. Firstly, it will be available for the testing of all road service vehicles but at the same time Government intends to introduce in due course that all cars in Gibraltar should, at least after a certain period of time, go through an MOT test in a similar way as in the United Kingdom. The intention will be to start slowly. The first cars that will need to be tested will probably be those that are ten years old or over and as time goes by this will gradually be reduced until we are inspecting all cars that are at least five years old or over and perhaps three years old or over. This, I think, will have a twofold benefit. It will see, first of all, that all cars on our roads are in a serviceable condition and secondly, because a fair number of old cars will probably not pass the test, it will mean that those cars will have to be taken off the road and that will I think remove a reasonable measure of congestion. So the first part of the Bill which is clause 2 is to allow for the compulsory periodic inspection, testing, etc of all classes of motor vehicles. The second part, Sir, is to amend the Ordinance in such a way that the prerogative of stating the number of road service vehicles in force at any time, and this is not only taxis but all road service vehicles, that this prerogative should be with the Government. Up to the moment it has been with the Transport Commission although, as I have already stated earlier in this House, the Transport Commission always used to ask the Government for guidelines on what the numbers should be. I think it may be interesting to the House to know that the letter that the Hon Mr Isola spoke about, in which the Transport Commission threatened to take us to Court, was actually dated 1st July, and turned up in the Secretariat on the 4th July and gave from the 1st July seven days notice. It turned up on the 4th July, was processed on the 5th and actually arrived to me in the House yesterday.

HON P J ISOLA:

Mr Speaker, are we going to hear a statement from the Attorney-General on when he knew about it because I am reliably informed as to the time

MR SPEAKER:

We are going to have a debate on the Bill.

HON M K FEATHERSTONE:

We have had the hysterical histrionics of the Hon Leader of the Opposition already on this matter and doubtless he will go once more into his convulsions but that does not worry me the slightest, Sir. The letter is couched in most abusive terms. I think the Transport Commission seems to consider themselves a very important body and wish to be the tail that wags the dog. The other part of the position is that this fact that the Government was going to take the prerogative of deciding the numbers of road service vehicles for itself and to remove that power from the Transport Commission has not come as anything new to the Transport Commission because they were written to on the 13th April informing them that Council of Ministers, following discussions in this House of Assembly, had had a look at the Transport Commission section of the Traffic Ordinance and Council of Ministers had decided slightly earlier to the 13th April that amendments were to be made and that the powers to determine the number of taxi licences available at any specific time and other road service vehicles if required was going to be taken over by Government. So they cannot say they did not know anything about it, they did not have, although they were requested, that courtesy to reply to that letter of 13th April asking for their comments. All they were able to do was to wait until time caught up with them and then send a rather abusive letter. The Bill was ready well before the 1st July.

HON P J ISOLA:

Why wasn't the House given notice of it then?

HON M K FEATHERSTONE:

Because the Bill was in draft, it had not been published. I did not say that the Bill was published, I said the Bill was prepared. In fact, we worked on the Bill somewhere about ten days ago. The Bill was prepared, there was no question that it was only hastily prepared when we got this threat from the Transport Commission because, as I say, their letter was dated 1st July and did not come through until the 4th. This is a very clever trick, if I may say it, to write a letter on a Friday knowing very well it is not going to be processed till the Monday and then to claim that we gave you ample time. This trick has been played many, many times, it is a trick, with the greatest respect, that does not carry very much weight.

HON P J ISOLA:

Will the Minister read the letter or make copies available?

HON M K FEATHERSTONE:

No, I have not quoted from it I have only said the letter has come. Anyway, you must have a copy already.

HON P J ISOLA:

I have not, that is why I am asking you.

HON M K FEATHERSTONE:

I am sure you have been kept fully in the picture by the Transport Commission and by the one or two people who are pressing very much to get a taxi licence.

HON P J ISOLA:

If the Hon Member will give way. I am not pressed by the Transport Commission, the Chairman of the Transport Commission approached me about eight or nine days ago after an application I had with him in Court, full of indignation that the Minister had had the audacity to make an agreement and he showed me the letter he had written. That was the only time I have spoken to him.

MR SPEAKER:

The Minister is not to give way any more. Members may take notes and contribute to the debate at the proper time.

HON M K FEATHERSTONE:

The Hon Leader of the Opposition may say that the Chairman of the Transport Commission was full of indignation. Perhaps his indignation might have been evaporated if he had answered the letter of the 13th April at least within reasonable time because he would have then got a further answer which might have cleared the air sufficiently. Anyhow, the position is that Government feels that it is only correct and right that the prerogative to decide the number of road service vehicles in all categories should rest with Government not with a quasi-judicial body which was set up before there were any ministerial responsibilities, before this House of Assembly was even set up they did a very good job during their time, nobody is going to gainsay it but the system now is that Government must be done by Government not by outside bodies and that is the purpose in the amendment to the law being put forward today. The Transport Commission will still have the quasi-judicial rights of determining the actual licences to be given within the guidelines that will be set down to them by Government, it is not Government's intention to take away the right of the Transport Commission to hear applications but simply to give the basic guidelines as I say they have done hitherto for many years to now make it enshrined in law and I do not see any difficulty in this. I, therefore, Sir, 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:

Mr Speaker, the Minister, obviously, does not want to disclose the letter that he received from the Chairman of the Transport Commission otherwise he would have accepted my invitation to read it out to the House. Perhaps he will correct me if I am wrong. The letter threatened to take the Government to Court. It was seeking a declaration that their agreement was contrary to law and perhaps this is why the Minister for Public Works does not want to read it.

HON M K FEATHERSTONE:

If you insist I will read the last paragraph.

MR SPEAKER:

No, the letter.

HON M K FEATHERSTONE:

It says: "Unless, therefore, the Minister makes a public statement within seven days of the date of this letter, the Commission will seek a declaration from the Court that the agreement is null and void". It has not said that it is contrary to law but as I say, it was dated the 1st July, it did not arrive until the 4th July and I think seven days is a very clever trick.

HON P J ISOLA:

If the agreement is null and void why would it be null and void if it was not outside the powers of the Minister to make and contrary to law. Perhaps the Minister might withdraw this Bill from the House and be prepared to put it to the test.

HON CHIEF MINISTER:

Why, because Mr Stagnetto wants?

HON P J ISOLA:

No, I am not talking about Mr Stagnetto. I am saying that because the threat was made to the Government that they would be taken to Court, this Bill is being rush through without regard to the rights of anybody else or the interests or the law itself, as I shall point out when making my contribution to the Second Reading. I am astounded that a Bill has been

brought before the House that makes legal one part of the agreement and leaves the rest of it illegal. The only explanation, Mr Speaker, I can think for that is that the Bill has been rushed through the House to prevent proceedings being taken by the Transport Commission on the part of the Bill that is before the House, and I will explain why. The Hon and Learned Chief Minister said nonsense but perhaps he will tell me why it is that legislation is not before the House to implement other parts of the agreement that require legislative authority.

HON CHIEF MINISTER:

I will say why, because the advice that the Government has is that it is not illegal even though you say so.

HON P J ISOLA:

I know that is the advice the Government has but I think the advice has been lacking, if I may say so with the greatest respect to the Hon and Learned Attorney-General, and I think he will agree with me when I have finished addressing the House on the Second Reading of the Bill, that this Bill will require further amendment if the agreement is going to be given effect to. And if he says it is not, then I will be very surprised. Mr Speaker, why have questions been asked about this agreement and why are we opposing the Second Reading of the Bill? Let me make one thing clear on behalf of my Party. It is not our wish in any way to affect the livelihoods of members of the Taxi Association. We consider that the licence for a taxi has a goodwill value and that that goodwill value should not be derogated from by suddenly increasing licences to an inordinate number so as to reduce their value which I think is at the root of the problem. We do not agree that that should happen and that that should be done but what we do say is, firstly, that there should be enough taxi licences in existence to enable service to be given to the community and that this requires, following the partial opening of the frontier, we believe requires two or three or four or five more licences. But, Mr Speaker, it is not for us to decide that. There is the Transport Commission that decides these matters by the law. And if you will recall, Mr Speaker, we have had previous debates on traffic, we have had questions before on the position of the Transport Commission and we have during those debates pointed out the need to clarify the position as to who grants taxi licences. Is it the Transport Commission or is it the Government? The reason we have said that is, and I said it in the House and I got an assurance from the Minister for Public Works that he would make a statement in the House within two months at some stage when we had an amendment before the House on the Traffic Ordinance, because I said we have the position that the people who are seeking a licence, the Taxi Association and others, are approaching the Chief Minister, the Minister for Economic Development, the Leader of the Opposition, the Minister for Public Works, I think even Mr Zammit has been approached perhaps because he had something

to do with traffic, I don't know. As I see the position, it is the Transport Commission that decides who gets licences and who doesn't. And although I may be critical, although I may say that in my view there is room for one or two or whatever licences more, I do not accept that that is a matter for decision for me or, indeed, for the Government, that is a matter for the decision of the body that has been set up by law to consider the matter. The Government make an agreement on the 23rd June, 1983, which seeks to sort out the problems that they apparently have with the Gibraltar Taxi Association and that agreement said things that the Government was unable to say without getting legislative authority and we have gone over that already. But, Mr Speaker, what the Government has done wrong in my view and that I asked and questioned the Hon and Learned Attorney-General on the matter only yesterday, is that with applications pending for taxi licences to the Commission that is set up by law to consider them and decide on them at the time the agreement was made, it is totally wrong for a Minister of the Government of Gibraltar to sign an agreement saying there will not be any more taxi licences at a time when another body has before it applications and has the responsibility under the law to decide whether they should be granted or not. Mr Speaker, if the pattern followed by the Minister for Public Works of entering into agreements without legislative authority as a result of pressures or as a result of conviction, it does not matter which, if that is the practice that Government is going to follow in the future, it does not augur well for democracy and that is the word that I used yesterday to the Hon and Learned Attorney-General. It does not augur well for democracy because people, however unjustified their application, however wrong, however misguided their application, are entitled to have it heard by the body set up by law to hear it and it is wrong for a Minister to do an agreement publicly which negatives that application whatever its merits. How many times, Mr Speaker, have we been told from that side of the House by the Chief Minister, by the Minister for Public Works, by the Hon and Learned Attorney-General more than once: "I cannot answer this, it is sub judice there is an application pending". How many times, Mr Speaker? And we on this side have accepted that, we on this side of the House have accepted that, have had to accept it. I give Engineer House, I give the Varyl Begg Estate, the Attorney-General has a list as long as his arm in which he has not given information to the House because he thinks it would be improper because there is an application pending, it is sub judice. And here we have three or four applications pending before the Transport Commission and the Minister of the Government publicly ensures that those applications can never see the light of day and can never be granted. That is what we on this side of the House object to, that is not democracy, Mr Speaker. "Huh", says the Chief Minister.

MR SPEAKER:

I will give one single warning and no more. People attend the public gallery to listen to the debate, not to interfere or to make any noises. If I have to clear the public gallery I will not hesitate to do so. I will not have any interruptions or exclamations so that the Member who holds the floor is inhibited from saying what he has to say. I hope I have made myself completely and utterly clear.

HON P J ISOLA:

I can assure you, Mr Speaker, that I have been in politics too many years to be intimidated in any shape or form but I am grateful for your intervention. Now, Mr Speaker, why do I say, and I would like incidentally, Mr Speaker, for the Hon and Learned Attorney-General to intervene and to tell the House as the Law Officer of the Crown, whether in his view it is proper for a Minister to sign an agreement that effectively precludes an application being heard by a Commission set up by law to hear it? In this House we do regard and we have long regarded the Law Officers of the Crown as being independent and giving their advice to the House even though they are working for the Government, in an independent manner, and I hope that tradition will be maintained. I am sure it will be maintained by the Hon and Learned Attorney-General. We have said that this Bill has been brought in a rush because of the threat of the Chairman of the Transport Commission to take the Government to Court on a declaration that the agreement is null and void and why have we said this, Mr Speaker? Well, according to the Minister for Public Works, the decisions were made back in April and the Chairman of the Transport Commission was written to on the matter and there has been no reply. As I say, I do not know, we have not got copies of the letters. I obviously accept what he says on that side. Legislation was ready, draft legislation was ready. Well, if it was ready, Mr Speaker, why wasn't the House treated with courtesy, why weren't Standing Orders observed and we given seven days notice of the Bill? Why was it sent to Members of the House precisely one day after the letter from the Chairman of the Transport Commission arrived at the Government Secretariat, and I accept fully that it must have arrived on the 4th because if the letter was posted on the 3rd there is no way anybody is going to get it in the Government Secretariat before Monday because Saturday is a dies non. Why was the Bill then sent to Members of the House a day before this sitting, on Tuesday, if it had all been agreed? Why wasn't due notice given? Why was it a rushed Bill and why wasn't it even on the Agenda for the House, Mr Speaker? The Control of Employment Bill which we also got a day before the sitting of the House, that Bill was on the Agenda, as the Minister concerned was very prompt to point out in his answer to the question. Why was not the Bill to amend the Traffic Ordinance not on the Agenda even of this House? Mr Speaker, the only conclusion that can be drawn from that is that the Government woke up to a situation that they needed legislative authority to back up their agreement and a Bill was hastily prepared and rushed to this House and because it

was hastily prepared and rushed to the House and only dealt with the points that the Chairman of the Transport Commission had brought up, it is incomplete and I will say why, Mr Speaker. I would refer the House to section 64A of the Traffic Ordinance. That section says: "The Commission shall insert in every road service licence in respect of a taxi, a condition that the vehicle shall not be used for hire or reward except by the registered owner or one named driver or where a number of taxis are owned by the same person, by the registered owner or a number of named drivers not exceeding the number of taxis owned by that person. And the Commission shall insert the name or names of the registered owner of the driver or drivers in the road service licence. Provided that the Commission shall not insert the name of any person other than the present registered owner whether as a registered owner or as a named driver". And then there are provisions for temporary registration of owners when somebody goes ill or whatever, or drivers, and then there is further provision under which the Director of Tourism in special circumstances can allow a second driver and so forth. Mr Speaker, there is no statutory authority for a second driver in a taxi. It is not possible under law for that, that is section 64A of the Traffic Ordinance. The Commissioner of Police has a discretion but that is the position and of course if Hon Members will recall, back in 1969 I think or 1968 or 1970, I cannot recall exactly, there were provisions for two drivers and at the request of the Taxi Association the law was changed to ensure that only one driver per taxi, either the owner or a named driver, so that the agreement under which the Government agrees the introduction of a second assistant driver who must not be someone in alternative full-time employment, requires legislative authority, it requires the amendment of the Traffic Ordinance and I am sure, having brought this to the notice of the Attorney-General yesterday, I am sure there will be amendments in Committee Stage to deal with this. Whether the amendments will be adequate is another matter but I am telling the Minister that this point shows to me beyond a shadow of doubt that this legislation is rushed legislation for fear of being taken to Court. The Government has brought a Bill for the House that merely safeguards their position against the complaints made by the Chairman of the Transport Commission that the agreement was null and void. And then, Mr Speaker, and I know this can be done by regulation, there are other factors, other aspects. The agreement relates to a number of matters which I agree are minor matters compared to the main part of the agreement but that also requires regulations, Mr Speaker, otherwise how is it to be enforced, by the Government suing the Gibraltar Taxi Association or something? Anything to do with traffic, anything on which the public is entitled to rely on has to be done by regulation. If you have a disc on a private car, the regulation says it must be exhibited on the windscreen and unless the law said that people could do it or not do it and the same will be the case with this. An agreement has been signed on the 23rd June but the only back-up legislation that we have before the House to implement that agreement is a Bill giving the Government power to restrict the number of licences. I am going to ask the

Attorney-General another question and this is again a matter of some interest in the interest of legislation and good legislative practice and that is that the section that deals with the powers of the Transport Commission is section 63 and I think it is worth reading that. "In exercising its discretion to grant or refuse a road service licence and its discretion to attach any condition to such a licence, the Commission shall have regard to the following matters:- (a) the extent to which the needs of the area of the proposed service are already met; (b) the desirability of encouraging the provisions of adequate and efficient services and eliminating unnecessary and unremunerative services; (c) the applicant's reliability, and in the case of an omnibus service financial stability and the facilities at his disposal for carrying out the proposed service; (d) the number, type and description of the vehicle; (e) any evidence or representation received by it is in accordance with the provisions of section 61 and any representations otherwise made by the licensing authority, Commissioner of Police, any public body or any person carrying on transport service of any kind likely to be affected; Provided that before taking into consideration any adverse representation they give an opportunity to reply to such a representation". Mr Speaker, it is clearly within the intention of the Traffic Ordinance that it is the discretion of the Transport Commission to decide whether in all the circumstances a licence is to be granted and it is the Transport Commission to decide whether the needs of the community are fully met or not. What the Government is doing by putting this particular section into the law is bringing a conflict within the law of the respective duties of the Government and the Transport Commission. One part of the law says it is the Transport Commission that shall decide this and another part of the law says, no, it is the Government that shall decide this. Is that good legislation, I would ask the Attorney-General? On what does the Government decide these matters, on what it is told on the advice of the Transport Commission? Why bother the Transport Commission at all with it? How can the Transport Commission consider an application for a taxi licence, which is the one we are talking about, but this also applies, Mr Speaker, to omnibuses? To my knowledge there are a number of applications today before the Transport Commission in relation to omnibus licences. Is the Government going to do the same thing there, listen to the omnibus owners or whatever and say: "Right, that is it, no more. Applications that are pending bad luck, old boy. We govern - as the Minister for Public Works said - we govern, we do this"? Yes, of course you do but if you want to govern and you want to do this, do away with the Transport Commission, do away with the Traffic Ordinance, you grant the applications. Let us go back to the old days in Housing when the Minister used to allocate houses. Now it is an Allocation Committee. This is the process in reverse, Mr Speaker. The Government is now going to do the taxis. Why, we ask, why? Because we govern, we have not been pressurised, we have not been forced into this agreement, we have been considering it and we govern and we govern and we go on governing. Fair enough, Mr Speaker. If the Minister for Public Works wants to take those decisions himself he has got the power and he has got the majority in the

House to put it into effect but then let the Transport Commission off the hook, say: "Thank you very much, gentlemen, you have done a good job in the past. We do not really need you because we know how many taxi licences are required in Gibraltar, we know who should get them and who should have them", so away with it. The Government can do that but they cannot hide behind the Transport Commission, Mr Speaker, which is what they are now doing. There is the Transport Commission the authority vested with the power to grant or not to grant licences and the Government comes along and says: "Yes, you should only be able to grant any that I give or any that I allow". Mr Speaker, I know what I would do if I was in the Transport Commission and if I were in the Government I would not have signed that agreement. And I will tell you why, and I have explained why. Whatever the merits of the case might be and there may be merits, I would not have signed that agreement without finding out first, at least, basically, elementary, are there any pending applications for taxi licences? That is the first thing I would have done, direct the Transport Commission to hear them and then make your decision. But, Mr Speaker, as I have said, this has been a rushed Bill brought in to cover the Minister's position, to cover the mistakes made by the Minister of signing an agreement which really he had no right to sign having regard to the provisions of the law, having regard to the obligations set out in the Traffic Ordinance that has to be carried out by the Transport Commission, he signed an agreement and when he was told that he was going to be taken to Court he got this Bill put on the Order Paper a day before the House sits and the Bill that is before the House is inadequate even in its present form, Mr Speaker, and that shows that the agreement was signed through pressure with the Taxi Association. The Bill is brought through pressure of the Chairman of the Transport Commission. That is the position in fact and I would ask the Government because I notice that under the Bill the Government has or the Governor, Mr Speaker, the Governor is the man who says how many road service licences may be granted for any type or types of public service vehicles, I would ask the Government to give this House an assurance that they will ask the Transport Commission to hear existing applications and dispose of them according to the law in existence when the applications were made and then fix the limit. As I understand the position the Government should have nothing to fear from that because as I understand the position, the Transport Commission are not very happy about granting any more licences but at least let them hear them and let them adjudicate them as they are required by the Traffic Ordinance to do. And that, Mr Speaker, is the reason why we are going to vote against this Bill. Not because we are against curtailing the increases of taxi licences, not because of that but because, Mr Speaker, we think the Government has set about it in the wrong way. I was promised from the Minister a public statement in this House as to Government policy on the matter. The record of that debate will show on what it intended to do with regard to that part of the Traffic Ordinance. Instead of getting a public statement here, we read in the news of an agreement signed by the Minister and a Bill rushed with 24 hours notice into this House to protect the Government from a lawsuit from the Transport Commission which it had set up under the Traffic Ordinance. Mr Speaker, we cannot support under these circumstances this Bill.

HON CHIEF MINISTER:

Mr Speaker, I picked up one or two remarks. The Hon Member on this session is particularly aggressive throughout, no doubt as a result of his frustration at not being able to be in the limelight except by calling attention and trying to interfere or trying to make a lot of noise when the Government achieves something which leads to industrial peace and proper and satisfactory arrangements with the people concerned. At the time of the rubbish collection incident he would have wanted us to have a confrontation with the Union and we were being urged to do that. We were looking for solutions which would suit the Government and would not bring confrontation and I said so here and I say so now that we do not want confrontation with the Unions. The Hon Member was making great play the other day at a party saying that what was wrong with me was that I did not want to confront the Unions and that if he were in Government he would confront the Government and fight the Unions over the Dockyard. Well, these are all very nice remarks to say socially but being in Government it is a different matter and if he wants to confront the Unions I do not think he will ever have a chance because he will never be on this side of the House.

(Interruption from the Public Gallery)

MR SPEAKER:

I will clear the gallery immediately if that happens again. I have said it once and I will not say it again. The public gallery is here to listen and not to take part in the proceedings. If they cannot restrain their emotions then my only alternative will be to clear the gallery and I will next time.

HON CHIEF MINISTER:

The Transport Commission, I have been told by the Chairman repeatedly, have a list of about 68 or 70 applicants from years immemorial and they have done nothing about it and suddenly they may become very militant and threaten action. Incidentally, when I said yesterday that I had not seen the letter it was perfectly true. Let me tell the House that I saw the letter this morning when the Minister showed it to me. It was received on Monday and I was doing other things perhaps as important if not more important for Gibraltar during that time. The other thing that he said was that this procedure does not augur well for democracy. There are many things that are done in Gibraltar that do not augur well for democracy and give a bad name to democracy. Let him not try and preach in this House when he is the first that is not fit to preach in this House.

MR SPEAKER:

Well, let us come down to the subject before the House.

HON P J ISOLA:

I would ask the Hon Chief Minister to withdraw that.

HON CHIEF MINISTER:

I do not have to withdraw anything. The conduct of the Hon Member does not want warrant my withdrawing anything.

MR SPEAKER:

I think we should now come back to the orbit of the debate.

HON CHIEF MINISTER:

I just took some notes about what he said that this was not good for democracy. Well, I think the Minister has shown that one thing has nothing to do with the other and there was no threat in that letter, only that if they did not get a reply they would seek an order, whether they would get it or not is a different matter, they did not go as far as saying that they were right, they said they would seek an order. Of course you can go every day for an order to the Court and most of the time you come out and you do not get it, but the Government -- and I say this in all solemnity because this is a very important matter -- have not, repeat, not brought this amendment because of the threat of the Transport Commission. It is not the first time that the Government has been taken to Court to find out whether any action taken by the Government is legal or not and the Government have been represented. In one case, in the case of the Price Control Ordinance it was found that an amendment that we had brought here was contrary to the Constitution and we accepted that, that is democracy, that is the Constitution. The Court has a perfect right to question if we acted within the Constitution. We are not hiding behind the Transport Commission, not in the least. In fact, the Minister has very clearly said that if and when the Government, in pursuance of the rights that I think it has and it is in any case seeking a legal authority to continue to have or to have formally to decide the number of taxis if that is to be increased, the Government is not going to exercise the patronage as to who should have taxis or not, that will be left for the Transport Commission to decide on the merits. With regard to the other matters that the Hon Member has questioned about the legality of the rest of the matter, well, of course I will leave that to the Attorney-General to deal with. As far as I am concerned legal advice to the Government is given by the Attorney-General and he may be wrong but he can also be right even though the Hon Member thinks not. In that respect, of course, he will answer for that part of it but let it be said quite clearly that the functions of the original Transport Commission when traffic was under the hands of the City Council, were delegated to the Transport Commission and when the IWBP came into office a Minister became Chairman of the Transport Commission to try and control from that Government the workings of the Transport Commission

and we appointed an independent member of the Transport Commission, so independent that he threatens to take the Government to Court so nobody can blame the Government for doing that and good luck to him. I respect the independence of the Chairman and the members of the Transport Commission and I have so told him and in fact if he had wanted to he would have done that and that would have been his privilege. But we never interfered with the Transport Commission by putting a Minister as Chairman as that Government in the limited time that they were in office did. Immediately on return to office we took away the Chairmanship from a Minister and left it to an independent person whose independence cannot be questioned when he being a lawyer of experience and so on, wonders whether the action taken is legal or not. But the Transport Commission must also take a considerable amount of responsibility. They cannot blow hot and cold. If they have 68 pending applications they should have made up their minds. If they are so independent why didn't they hear all the applications and decide that there was need for 20 more taxis or no need for them? They have been sitting on the fence and done nothing at all about this trying to be kind and pleasant to everybody without taking a decision. This is why the Government has had to take action and put the matter in a proper form.

HON J BOSSANO:

Mr Speaker, I support the Bill brought by the Government and I support the agreement entered into between the Government and the Taxi Association and I reject entirely the arguments put by Mr Isola. Let me say first that as far as I am concerned, the Gibraltar Taxi Association is the body that represents the overwhelming majority of those involved in that area of employment. Most of them are self employed, they are in a way small businessmen which should appeal to Mr Isola, but in fact the Association is a registered trade union and I believe that the Government should in fact work in close consultation with those who have themselves a vested interest in the prosperity of the taxi service since their whole security depends on the viability of the service. They have no pension to look forward to, they have nothing to fall back on, they are not even entitled to unemployment benefit, Mr Speaker, or to industrial injury precisely because they are self employed. So, in fact, they have themselves a vested interest to ensure that the service works efficiently and I urge the Government to move in this matter and in ensuring that the public is getting a service in close consultation with the Association as the sole representative body of those involved in the trade. Coming to the question of the taxi licences. This matter has been raised before in the House, Mr Speaker, by Mr Isola. And, in fact, if my memory serves me right, his accusation the last time was that how was it that the Minister was having meetings with the Committee of the Taxi Association discussing licences when that was not within the prerogative of the Minister's powers, that it was a matter for the Transport Commission and that he should not even be discussing it and that if we wanted

to do it let him come out openly and give himself the powers to do it. Now he comes out openly, he gives himself the powers to do it and the Minister gets told: "Well, why are you taking away the powers from the Transport Commission?" Because in fact he was all out to do it. He was asked in this House to do it by Mr Isola, he was told by Mr Isola that if the Transport Commission had to consult the Government on the number of licences then they ought to say so and the law should be changed so that it would say so. Well, that is what the law is doing. I accept entirely the argument that Mr Isola has put and that the Commission has put that in fact as the law stands today the Government would not be able to deliver on the question of the agreement as regards guaranteeing that no licences would be issued. They would not be able to deliver, so what? If you are not able to deliver, you are not able to deliver. All the Transport Commission has to do whether we pass the law today or we pass the law in six months' time, is what it has been doing for the last 25 years and that is consult the Government extra legally and unofficially as to whether they should grant licences or not. That is all they need to do and then the agreement is enforceable. Because in fact all the agreement says is that the Government agrees to the maintenance of the licences at present levels which it is not able to enforce by giving a directive it is certainly able to enforce in the way it has enforced it in the past. Does, in fact, the law say that the number of licences shall be static? It does not say that, what the law says is that the power, the legislation, establishing what should be the maximum number of public service vehicles licences is now going to be provided for and presumably that figure will be known and will be public and we will not have the situation that we have had until now where all sorts of arguments and campaigns are started are based on totally spurious analysis of what is the availability of business and how the livelihood of those involved will be affected by opening the doors to others. It is all very well for the Hon Leader of the Opposition to try and water down his opposition to this by saying that in principle he recognises that there is goodwill there. I would like him to explain to me how he thinks once you start giving away licences free, you are going to be able to retain any sort of goodwill because I cannot imagine how anybody can tolerate that somebody should transfer his licence to somebody else and then get a new one issued to him and still talk about goodwill. I think it is quite right, Mr Speaker, that the question of taxi licences should be bracketed with other types of public service vehicles because they are plying for the same customers and in competition with each other. When the Transport Commission gives a licence to a tour operator to put a bus outside the airport to pick up 20 passengers, what does the Hon Major Peliza expect the taxi drivers to do, to all sit in their taxis watching the bus getting full up? Therefore, Mr Speaker, it is quite right that the matter should be in the law and it should be on the basis that in fact this is an area of business which is entitled to the same protection as other areas of business insist on having every time we talking about protecting the Gibraltar economy, every time we talk about protecting local jobs and local businesses we are talking about the same issues.

The decision of the Government, to my mind, is not premature, in fact, it is something that should have happened a long time ago and it is right and proper that it should be out in the open and in fact since this House as a maximum has only eleven months to go, if a great injustice is being done to those who have been waiting for twenty years to have their application heard, all that the Hon Member has to do is to include it in his election manifesto and say that if he gets elected he will use that to increase the maximum so that the 68 applicants who have been waiting will also get licences. Having waited twenty years, to wait another eleven months is not going to be a disaster assuming that in fact there is any possibility of the Hon Member getting into Government and in any case then one would imagine that he would also include in his manifesto that he was going to build more houses, reduce income tax, control the Trade Union Movement, lock people out and so on and so forth. In which case, Mr Speaker, if you win after all that, he probably deserves to win.

HON A J CANEPA:

Mr Speaker, in giving full consideration to the legislation before the House today, we have to consider the background against which the Transport Commission was set up and the extent to which the realities as they were then back in 1959 as against what they are now the extent to which these have changed. When the Transport Commission was set up it had power to advise the Governor on all matters affecting traffic on the roads. In fact, what was happening was and until very recently when the first amending Bill was introduced earlier this year, what was happening was that in fact the Transport Commission was the body determining policy in all traffic matters. That situation may have been alright then in the 1950's but that cannot be the situation today when there has been considerable constitutional advancement and when it is Ministers, collectively in Council of Ministers, who are the executive body. The requirements of traffic in the last eighteen months or so, have inevitably led to a number of changes. Because of the anticipated implementation of the Lisbon Agreement the Government had to take a more active part in bringing about certain changes in traffic than had been the case previously. The first thing we did as a result of that was to transfer responsibility from the Minister for Tourism to the Minister for Public Works because it was in fact the Public Works Department which was in the forefront of the implementation of these changes and it was logical and sensible that it should be the Minister also responsible for the Public Works Department who should be the determining factor on policy in traffic matters. Then we discovered that in fact the Minister was having to constantly seek the advice of the Transport Commission on any changes in traffic matters even if they were of a very minor nature. If the Minister wanted to have a traffic island somewhere in the middle of the road, he had to mandatorily because the Ordinance said the Commission shall advise the Governor on all matters affecting traffic on the roads. And the Minister had to go almost cap in hand to the Transport Commission: "May I please have a traffic island somewhere?" And if the Commission said no, and they did from

time to time, the hands of the Government were being tied in the deployment of such policy on traffic matters as it saw fit. And so early in the year we amended the Ordinance to take account of that situation. I think that it is quite correct for the Transport Commission to sit in a quasi judicial function and determine who shall get a traffic licence. I think it is for the Government ultimately to decide, after consulting interested parties, amongst them no doubt the Transport Commission who would advise the Government on the number of public service vehicle licences that there should be. And once the Government has determined that after consultation, and that has been given effect as prescribed in the Bill now before the House from time to time by notice published in the Gazette, it would be for the Government to go to the Transport Commission and say: "We think that another five taxi licences or six or seven taxi licences should be given, will you please from amongst the applications that you have pending, will you please decide who should get those licences". But in effect what has been happening, as we have heard, has been that the Commission has been sitting for many years on a number of applications and I do not know why. To the extent that recently, on behalf of some of those applicants, an application has been made to the Court for an Order requiring the Transport Commission to adjudicate once and for all on these pending applications. The matter has been most unsatisfactory and that is why the Government, through their Minister responsible, has acted in the manner in which it has. Where I think the Leader of the Opposition is making a mistake and we have seen that from his performance in the House this morning when on the one hand he seems to be sympathetic towards those who have applied for taxi licences and which the Transport Commission has not dealt with, and on the other hand he is sympathetic to the point of view of the Transport Commission in respect of the blandishments which they have made against the Government, where I think the Leader of the Opposition is making a mistake is that in my view he is trying to run with the hare and hunt with the hounds and sooner or later that catches up with you.

HON A T LODDO:

Mr Speaker, I will be brief and I would like to remind the House that this Traffic Ordinance amendment deals as well as with the taxis, with the testing of vehicles. We all seem to have forgotten that part of these regulations is the testing of vehicles. On the question of the taxis, I will say nothing more than without going into the merits or demerits of the case, I remember in this House not so long ago a similar situation occurring with regard to landlords and tenants when a piece of legislation was brought to the House whilst there was a certain case pending and I would question the wisdom if not the morality of bringing forward legislation and there are matters to clear up. Having said that I have nothing more to say on the question of taxis or the merits or demerits of the case such as it might be. Mr Speaker, it is well known that I bring up the question of traffic and parking whenever I can in this House. I believe that the problem of traffic and

parking can never be completely solved but I do believe, Mr Speaker, that given courage the problems of parking and traffic congestion in Gibraltar can be substantially alleviated. I am quite happy with little (a) on the Bill, namely, the part which deals with the testing of vehicles. This will go a long way to decongesting our heavily congested streets and roads and, Mr Speaker, I would hope that this is only one of a number of measures which the Government will take to reach this goal, namely, the decongestion of the streets. I hope that the Government will also consider the question of time limits for parking, free parking and paying parking zones and the introduction of traffic wardens. Mr Speaker, I am quite happy to go along with (a). I am not so sure about (b) for the reasons I have mentioned.

HON ATTORNEY-GENERAL:

Mr Speaker, I think what I said yesterday is now a matter of record and there is nothing more I wish to add to it as to the knowledge I have of the letter that was written or has been written and has been referred to in the House this morning. I said yesterday what my position was on that letter and that is correct, that is the position on it. I received this morning a letter from the Chairman of the Transport and Licensing Commission which invites me to correct a misleading impression I have given the House. Well, I have read the letter, I will be writing to him and I have no misleading impression to correct. I have told the House what happened as far as I was concerned.

HON P J ISOLA:

Sir, the Chairman of the Transport Commission was here yesterday during question time. Perhaps the Hon and Learned Attorney-General will tell the House the nature of the Chairman's complaint to him.

HON ATTORNEY-GENERAL:

The Chairman, first of all, refers to two letters of which I do now have copies. This is the first time I have had them, I saw one letter this morning which the Hon Minister for Public Works has. He referred to the fact that I said yesterday I had no knowledge of two letters and I think only one letter was being discussed yesterday from my memory.

MR SPEAKER:

Certainly, only one letter was discussed.

HON ATTORNEY-GENERAL:

He goes on to say that my denial came as a surprise to him, I am paraphrasing this but I think I am giving the gist of it. And then he refers to a telephone conversation he had with me last week. He did have a telephone conversation with me last week and I think I adverted yesterday to the fact that I knew that there was a possibility of a Court action but I think I adverted to that not as being in the form of a letter but in some way I am sure I did advert and I have checked with my Learned Friend that there was a prospect of a Court action. But if I listened to every threat that I receive in the course of my job as Attorney-General, I would be asking to waive Standing Orders a great deal of the time, Mr Speaker, because frankly I would not have time to get on with the law drafting. I say that in general terms and I do not mean that in a personal sense against the Chairman of the Transport Commission.

MR SPEAKER:

I am sure that you are not insinuating that whatever was said in that letter that you received from the Chairman of the Transport Commission or whatever was said in the conversation the Chairman of the Transport Commission held with you was in the nature of the threat. Because as you have said that if you were to pay lip service to every threat that you received then you would not be able to do your job properly. You are not insinuating that you have received a threat from the Chairman. I think one should clear on that in fairness to the Chairman who is not in a position in this House to answer what you have said now. At least you can clarify the position if you wish to do so.

HON ATTORNEY-GENERAL:

I was venting my spleen slightly, Mr Speaker, but I did not mean that in any personal sense whatsoever. I appreciate that the Chairman of the Transport Commission has a view that what the Government has done is not legal but I would like to explain why I think that the law has not been broken. The Government is perfectly entitled, Mr Speaker, to make an agreement, it can come to a view as to policy as to what it wants to achieve and it can make an agreement with somebody. In this case as I think I said yesterday at question time the Government has made an agreement. The Government has made an agreement with an Association and that agreement has indicated a policy that the Government will follow, and it has indicated certain commitments given by the Association. As a matter of policy the Government wishes to be able to control the maximum number of public service licences specifically taxi licences that may be in issue at any one time. Under the present law it is indeed the function of the Commission to be able to say how many licences there shall be and therefore for the Government to sustain the agreement does not mean the agreement is illegal in the first place, Mr Speaker, but for the Government to sustain the agreement the Government must amend the law and this is what this Bill is doing. That does not mean the agreement

itself is illegal. There is a question, I appreciate, of outstanding applications at the time that the Bill, if passed, comes into operation. As Members well know, Mr Speaker, in some matters - and I am thinking particularly of trade licensing - where one brings an additional licensing requirement where a requirement did not previously exist, then it is normal and in fact a Bill before this House contains just such provisions, it is normal to provide a transitional mechanism so that people who have been carrying on that business can apply for a licence and will get a licence within a certain time, that is quite normal and it would be harsh if that were not so although it would not necessarily, in my view and in my experience, Mr Speaker, be undemocratic because I think there are some matters of policy which are so important that one might in some circumstances curtail existing rights to carry on business. But in any event this particular situation is not the same as the trade licensing situation because in that case what is happening is that people are already carrying on a business, the law is saying: "For the future if you want to carry on that business you must have a licence" and therefore the case for having a transitional provision is that much stronger. In this case what is happening is that people who have not got licences where there is an existing obligation to have a licence, have applications in the pipeline but they are not carrying on business already and that is not quite the same situation. It may, in effect, be inconvenient to have some applications that are part heard at the time the new requirements come in but, Mr Speaker, I think it is a question of balance. I think if it were not inconvenient or if the Government's policy was such that it felt it could make those transitional provisions then they could go in but I think the fact that they are admitted is not in any sense an undue infringement on democratic rights, I think it is a risk people run when they try to do something for which an existing licence is already required. The only other matter I would like to refer to, Mr Speaker, is the question of whether this legislation and perhaps I should not labour the point, whether it has been introduced in response to a threat and I repeat what I said yesterday, the answer is no. It is introduced because I appreciate that to carry that part of the agreement into force of course one has to amend the Traffic Ordinance because the law already vests that power in the Transport Commission. I disagree, with respect to the Hon and Learned Leader of the Opposition, that it is necessary to have legal sanctions or legal amendments to carry into force other provisions of that agreement. I will concede that there is one which I think must have legislative backing, section 64 does require an amendment in due course to the Traffic Ordinance but I do not think I see the nature of the agreement in the same way as he does so far as the rest of the provisions are concerned because it is quite possible to have an agreement which will work perfectly well and not to rely on any legislative backing for it and an example I can give I think is tobacco, the understanding with the people who sell cigarettes and there is no legal statutory backing there. The thing is efficacious by virtue of an understanding and I think that is the same kind of thing except on the two points that have been mentioned.

But the most pressing of those two points is the question of the maximum number of licences because in fact the fact that the Bill is being introduced shows that the Government is not acting improperly because the Government without a Bill cannot control the number of licences and I cannot see why the Transport Commission will want to go to Court because the Court would say if we did not have the Bill in force and the Transport Commission went to the Court, I think the Court would say: "With respect, what are you doing here? You are the Transport Commission, the Government cannot give you directions why do you want a declaration why don't you just go ahead and carry out your function?" That is what I think the weakness, Mr Speaker, is in the view taken by the Chairman of the Commission that the Government is already acting illegally and requires to be restrained by a Court action.

HON P J ISOLA:

If the Hon Member will give way. Why is it urgent to change the law to limit the number of taxis and not to change the law to introduce a second driver? Is it because of outstanding applications in order to quash them?

HON ATTORNEY-GENERAL:

No, that is not the case. To my knowledge that is not the case at all.

HON P J ISOLA:

But why the urgency?

HON ATTORNEY-GENERAL:

The urgency is so that the Government can lay down a limit because the Government has no legal powers to do it at the moment, I appreciate that. That does not mean that the agreement with the association is invalid, that is a separate matter but the urgency is to alter the law not so that the Government issues taxi licences but so that the Government can lay down policy guidelines within which the Transport Commission will work which is what the maximum number of licences is to be. In the case of the other point, the point as to the second driver, it is my understanding that there is no urgency about that at this stage but there will be action being taken. I think, Mr Speaker, I have dealt with the questions which were expressly raised. I would like to say I will be writing to the Chairman of the Transport Commission on the letter he has written to me but I wanted to let the House know that I have his warning and I have considered it and I am satisfied that what I said yesterday is factually correct.

MR SPEAKER:

Are there any other contributors?

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I would like to say a few words because obviously I am going to vote against the Bill. Perhaps I should start on the question of the MOT which I think only my Friend referred to and the Minister when he opened up. This is an important matter, I think that the House gives careful consideration to. I think it is certainly going to affect perhaps the lower income group of Gibraltar mostly. I do not know if sufficient consideration has been given. It is indeed for the man who can hardly afford a car, quite a headache in that every year he has got to put this to the test or whatever period the Government may decide. In Britain it is every year. If it is not going to be done regularly you might as well not do it because the whole object of introducing the test is to make sure that cars on the road are safe. Therefore this is why I support the idea of having an MOT. But in doing so we must not forget the other side of the problem which has just been produced. A car is almost a necessity in modern life. Most working people now, thank God, do possess a car. It is those people who have the older type of car, cars bought second hand and so on and so forth. I think the Government must be very careful how much they are going to charge for those tests because the fellow who gets a new car and can always change it after two years is not going to pay a penny, he is going to be sitting pretty. It is the poor bloke who obviously has to buy a second hand car who is going to be paying for that. I would bring it to the notice of the Government that they should be very careful as to how much they are going to charge for those tests. Secondly, I think one has to be absolutely sure that these are carried out properly. Anything that is restrictive in this way can lead to corruption in that you can get through the MOT if I give £20 underhand. That is a fact and people are just hypocritical if they do not accept that this is so.

HON CHIEF MINISTER:

Is that what happens in England?

HON MAJOR R J PELIZA:

I am not saying it happens in England.

HON CHIEF MINISTER:

If the Hon Member will give way I will explain why I have made that interruption. Because there is an insinuation that we are going to start with something that is going to be corrupt and he has spoken about the fact that this happens in England. As we have not started it here and he lives in England perhaps he knows about it and he can tell us how to avoid it.

HON MAJOR R J PELIZA:

Mr Speaker, I have not insinuated anything. I am saying that anything which is subject to a licence of that nature, which has got to go through an inspection, is open to that kind of corruption. And the Chief Minister is just saying: "Yes, it is happening here now". Well, I am right then.

HON CHIEF MINISTER:

No, what is happening now is inspection.

HON MAJOR R J PELIZA:

Well, it could be happening in those inspections already and the Chief Minister does not know about it. I am not making any insinuations. The Chief Minister is putting words in my mouth. If he wants to make insinuations he can do that. All I am saying is that anything of that nature leads towards that and therefore all I am trying to draw attention to the Chief Minister is that when this thing is organised, this is what I am trying to say, care should be taken to ensure that that sort of thing can be prevented inasmuch as it can be prevented. Otherwise there will be questions in this House and perhaps he will get as excited over them as he has got excited this morning already, Mr Speaker, over a matter that had nothing to do with the public gallery and which I think he tried to make an issue of.

MR SPEAKER:

No, with due respect. I have warned Members over and over again. Will you please sit down and listen to me. I will not have reference by Members to the public gallery. It is not the practice and it is not allowed. Let us continue with the speech now.

HON MAJOR R J PELIZA:

Having dealt with that matter, Mr Speaker, I go now to the second point which is the one which seems to have taken most of the time in this House. First of all, I think the Chief Minister was totally irrelevant when he started. I have to make comments on that, Mr Speaker, because it is most unfair on my Hon Friend here who was in no way personal about anything and which the Chief Minister as usual, when he has no argument, the only thing he can do is become personal and make a personal attack on my Hon Friend which was totally unjustified, producing matters that have nothing to do with this debate, Mr Speaker, and for that I am sorry. I am very sorry because the impression is given outside this House that we are almost a "patio de vecinos" and that, Mr Speaker, is the last impression that we want to give to Gibraltar. We are here debating a serious matter, we may agree, we may disagree, but it is a very serious matter and I think, Mr Speaker, the Chief Minister's attitude in that direction has given a very bad

impression of how we debate issues in this House. Now I am going to say why I am voting against this Bill, Mr Speaker. I do not know the merits of whether there should be more licences or there should not be any more licences. I do not know about that, that is not the question we are debating in this House. Let us be absolutely clear that we are not debating that matter. The Taxi Association may be a hundred times justified, Mr Speaker, in trying to make sure that no more licences are given and perhaps they are right or they may be wrong, I do not know. I do not want to go into that question because I do not have the facts and in any case I do not think it is right that this House should make decisions of that nature because all that can happen is that at the end all we are seeking is votes and not doing justice and that is not good democracy. We are here to express a view in a democratic manner. Our main objection, Mr Speaker, is that there was a body instituted by the Government, a statutory body whose function was to look after these matters. They were doing it rightly or wrongly, that is for the Government to decide, I agree, and no one is quarrelling that if in their best judgement the Commission was not acting properly then action should have been taken by the Government to do what they think is best even in what they are doing now. The Chief Minister referred to my Government and I felt that in the nature of the Commission as in fact my Hon Friend Mr Bosseno said yesterday, there should be some rapport, some understanding between the Government and this particular trade. And because of that, Mr Speaker, I had a Minister as the head of the Commission which the Chief Minister said was wrong and then immediately said: "Let us take him off because this is not democratic". But then we hear later his deputy, Mr Speaker, the Minister for Economic Development, saying that they could not get on with the Commission because even when they wanted to have a little traffic island changed it took so long and they could make no progress and therefore it was no good having it that way. Obviously, the big mistake of the Chief Minister was not to follow up the precedent that was already established of having a Minister as the head of the Commission and then that understanding, that rapport, would have existed all the time without having to create the furore that has now been caused precisely because the link was not there. What do we see now? We see a violation of democracy and this is why I am voting against the Bill. Whatever we do we must stick to the rule of law. That is absolutely vital if we want to have democracy here in Gibraltar and as my Hon Friend said it was already violated in the Landlord and Tenant Ordinance. Already we have seen Government trying to avoid a decision taken by the Courts by legislating, jumping over the judiciary which is a very dangerous thing because today we are talking about the licences but any individual who has a licence today in the Taxi Association in other matters respecting his life may find that when he is trying to get recourse to a Court of law the Government comes along, legislates and he has no recourse in the Court of law. This, Mr Speaker, is why I am voting against. I am defending the right of those people who do not want to have the licences increased but this is not the way to do it. That is all we are saying. This is not the way to do it because

this undermines democracy in Gibraltar and this is why I am voting against the Bill. I am not going to go into the case of how this was brought about, whether the letter arrived or the letter did not arrive. What I am concerned is that here we have the Government having to suspend our Standing Orders to get through the legislation almost giving no time to anybody in Gibraltar to comment about it. There is no public debate on this issue, Mr Speaker. Today it is about the licences, tomorrow it could be about hanging for all we know and there is going to be no public debate in Gibraltar because once we accept the principle it starts eroding and this is the way people have lost democracy in other places. It creeps in, it is like the mouse that bites a bit of cheese, sees there is no trap and carries on nibbling and nibbling away. Particularly when a Government has been in power for so long. Mr Speaker, as the one in Gibraltar. This goes on, Mr Speaker, and if they feel that they can bulldoze in this matter particularly if they win the next elections, let us hope they do not if they do, then, Mr Speaker, God knows how the rights of the people of Gibraltar as they are being now, now, already on two occasions, this is the second one, being I think taken away from them. It is a very subtle way but it is there all the same. It is open to discussion but it is there all the time. The principles are very sacred and we have got to defend it. I was elected above all because I am a democrat and if I feel I am a democrat and above all this is what I will always defend. I have done it before, Mr Speaker, on the question of printing in Gibraltar where I felt very strongly that that could lead to the censoring and suppression of freedom of the press, of freedom of speech, of freedom of writing and it is on the same principles that I am speaking today. Nothing to do with the merits of granting the licence or not granting the licence. It is the principle of democracy that I am defending. We know that the Government is going to pull this through, there is no question about it, they are going to do it. Mr Speaker, I suppose the Transport Commission I don't know, will resign. If any members of the Transport Commission has any honour they will say: "Well, if they think that I am a trickster", which is what the Minister said here in this House, I think very unfairly because they cannot defend themselves here, I think he went a bit too far and perhaps he would like to withdraw that when he speaks today because I do not think it is fair to suggest that he was just being tricked. But, anyway, Mr Speaker, he still has time to retract it and I think he should do that elegantly as it would be in the interest of all concerned. The Government have still got time, the Government can pass this legislation but all I ask from the Government is do not introduce it today, wait for the next meeting. If the Transport Commission have taken so long to look into those things that are pending, they are going to take many more months, in fact, seeing the way the Government is behaving there will probably be no Commission so there is no fear of more licences being granted. If no more licences are being granted and this is what we are concerned with, it is obvious, this is the reason why this is being rushed through. It is very clear in this House both by the words that have been said and physically by what is happening

in this House today that this is the case so what I suggest to the Chief Minister in order to uphold the principles of democracy is not to allow this Bill to go through the other stages until the next meeting. That would be of great satisfaction to me and I think it will be a move towards upholding the principles of democracy.

MR SPEAKER:

If there are no other contributors I will call on the Minister to reply if he so wishes.

HON M K FEATHERSTONE:

Yes, Sir. We have had what might be called an interesting debate. We had, as I said, histrionics from the Hon Leader of the Opposition and a certain measure of spleen I should think. We have also had histrionics from the Hon Major Peliza. The Hon Major Peliza made some very interesting remarks about the MOT and the possibility of corruption coming in. This I think is a shocking thing to say. He might also have said that perhaps the granting of a taxi licence by the Transport Commission could also be open to corruption and this is something I know could not possibly happen. I think the suggestions of corruption by the Hon Major Peliza were very much out of place. We have had very great pride in our civil service in Gibraltar. There is to my knowledge no corruption in the way the relevant civil servant who takes you for a driving test, passes you or does not pass you, you do not flick him £5 and he gives you a licence. He is a responsible person, he is going to see that he is not going to jeopardise the general public for the sake of a few pounds of filthy lucre as it is known, and I am sure that the people who ultimately have the responsibility of passing vehicles for an MOT test are going to take the same responsibility towards the public at large. They are not going to allow vehicles on the road which are in bad and dangerous condition to everybody else using the roads and it shows how out of touch the Hon Major Peliza is with Gibraltar and things that happen in Gibraltar because it is not the lower income groups who seem to be the ones that go around with old bangers.

HON MAJOR R J PELIZA:

If the Hon Member will give way. I did not say there was going to be corruption, it is most unfair that he should be saying that and even dragging people who are taking people for the driving test. I think it is most unfair to act in that way and again I think the Minister is coming to a very low level. All I said was that the Government should take the necessary precautions to ensure that that will not happen. That was what I meant.

HON M K FEATHERSTONE:

Well, perhaps the Hon Major Peliza expresses himself in such a way that he is open to misinterpretations but he did bring in the question of corruption but I will accept his clarification. He should say what he wants to say in the first place and not to have to clarify afterwards. The people with the old bangers at the moment seem to be certain gentlemen who are resident in Gibraltar although they are not of Gibraltar or British Nationality and they are the ones who seem to have a lot of old bangers around the Casemates area but, be that as it may, the situation must be that the vehicles that use the roads in Gibraltar must be in good condition and an MOT test is the obvious answer to it. I was very heartened by the Hon Mr Dotto, I often call him Dotto I don't know why, the Hon Mr Loddo who wants to see that the traffic situation should be considerably improved even at the risk of strong measures. I hope when some of those strong measures will come to the House in due course we can count on his support because obviously it is an important thing that the traffic situation in Gibraltar should be as good as it possibly can be. The question of the taxi situation, it seems astonishing that the Hon Major Peliza says there has been no public debate. Does he want a public debate on each and every item that comes to the House, he seems again to be somewhat out of touch and if there is to be a public debate, well, this House is the place for it and the reason Standing Orders are suspended is because it is classified as a matter of urgency. I think we are going to be asked to have Standing Orders suspended once again

HON P J ISOLA:

Will the Minister give way?

HON M K FEATHERSTONE:

I think the Hon Leader of the Opposition is going to ask for Standing Orders to be suspended because he wants to put in a resolution.

HON P J ISOLA:

Can I ask the Minister why is it so urgent that it should go through all stages without giving an opportunity to members of the public who have feelings on it to make representations?

MR SPEAKER:

May I explain the Standing Order. It is not a matter of urgency that determines whether a Bill should go through its three stages on a particular day. It is a matter of convenience and it is a matter that can be done if all the Members of the House agree. If not it has got to be done on a subsequent day but there is no reference to urgency.

HON P J ISOLA:

I agree but the Minister is saying that it is going through because it is so urgent. Where does the urgency lie, is it the Court case or something else?

HON M K FEATHERSTONE:

I think once again we come back to the Court case. Government was not under any threat of a Court case. It was an application to Court and Government does not react to threats like that but as I have said it was Government's intention before April, following a suggestion by the Leader of the Opposition that we should have another look at the powers of the Transport Commission, that the decision was taken and as I said I wrote to the Transport Commission in April and I never had the courtesy of any reply. They were told in that letter, fairly and squarely, what the Government's attitude was and what they were going to do. The Hon Mr Isola said there should be enough taxi licences. Well, I quite agree with him but then he goes on to say there could be two or three or four or five more. On what does he base this arbitrary figure? Two licences out of 114 is not going to make any difference whatsoever. If we need to increase the number of taxi licences it will be at a time when there is a determinate need to make an increase and then it would be an increase that would be substantial, it would not be two or three. An increase of two or three will make no difference to the taxi service whatsoever. When one does determine to have an increase it is going to be something which will make a required improvement in the taxi service that has been proven. At the moment it is considered by Government there are sufficient taxis. It might be pertinent to note that the number of taxis per head in Gibraltar, even allowing for tourists, is one of the greatest in the world. But should the Lisbon Agreement come into force, should there be a tremendous influx of tourists from Spain, should there be seven or eight airlines coming in every day, then of course the Government would look at it and say: "Now it is obvious that there is a need for an increased number of taxis, let us increase by 10%, 15%, 20% to cover the need". But at the moment the situation as has been stated in the agreement it is considered as far as the Government is concerned there are sufficient taxis. That there may be a shortage in one place temporarily at some taxi stand for a time, this happens anywhere. I have been to London airport, I have waited ten minutes for a taxi. Obviously this happens at all times but with the improved service that the agreement has envisaged with the use of radio taxis, with the agreement that we have made with the improved service the taxis promise to give, then of course we hope that the situation will be as we would want it. I am told why don't we make regulations for the putting on the roof sign? Why don't we make regulations for the disc inside the taxi? If you make a bona fide agreement with somebody you presume that they are going to adhere to the agreement they have signed. If they do not adhere then you have recourse. Your recourse, first of all, is to say: "Look here, you have not carried out the terms of the agreement, what about it?" And if they do not take notice, then you can go to

regulations. There is no need to shove regulations down people's throats from the beginning when they have come amicably forward and signed an agreement and promised to do what is actually stated in the agreement. The Hon Leader of the Opposition says: "On what does the Government decide, on advice? On advice of who, on advice of the Transport Commission?" It is the Transport Commission which has been coming to the Government for advice on many matters dealing with traffic and transport. In fact, they have actually been seeking the advice of the Government and of the Minister concerned about the question of private hire cars. Well, if they have got the powers why didn't they take it into their own hands? Why haven't they given the 68 licences that have been on application for years? Is it just because there are two or three people at the moment being a little vociferous and pressing very hard for reasons best known to themselves that they suddenly want to take action? Two can play at histrionics. I do not think I said that the legislation was read in April nor do I remember saying that I would make a statement about the matter when the Hon Leader of the Opposition brought it up. I think what I said was that Government would look into the matter and would be coming forward with possible amendments but doubtless Hansard will tell us exactly what was said.

HON P J ISOLA:

If the Hon Minister will give way.

HON M K FEATHERSTONE:

No, I have given way twice.

HON P J ISOLA:

Mr Speaker, on a point of order. He has referred to something he said when his actual words were "assurance". He gave the House an assurance, it was a pledge to the House. He cannot now get up and describe it as a statement he made or something, he should describe it properly, surely.

HON M K FEATHERSTONE:

It was claimed that I said to the House that I would make a statement in due course. I think I gave an assurance that we would look at the situation of the Transport Commission and we would probably amend the law in due course and this would be coming when we are ready for it but, anyway, Hansard will tell that. I do not remember, I may be wrong, I am not infallible, I may be wrong, I may have said that I would make a statement. But if that was so instead of making a statement as such the situation is we have acted determinedly on changing the law and a statement has been made in the speeches of today. The question of clause (c), the introduction of a second assistant driver, the Hon Leader of the Opposition is

correct there will be need to further amend the Traffic Ordinance on this matter. If he wishes it, we can do it as an amendment to the Bill today in the Committee Stage but I do not think there is so much urgency because I will tell him for his information it has been agreed by Government and the Taxi Association that the introduction of a second assistant driver will be deferred for the time being until the situation so warrants it in the view of both parties concerned and when that situation does come the amendment can be brought to the House and passed but if he insists we can pass it today and then he can say we have shoved even more down his throat. I do not think there is much more to say, Sir. I have said that the Government is very appreciative of the Hon Mr Loddo's intervention. We are very pleased with his intervention and we do look forward to his supporting further traffic measures that we will be taking. Thank you, Sir.

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON M K FEATHERSTONE:

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

This was agreed to.

THE MATRIMONIAL CAUSES (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Matrimonial Causes Ordinance (Chapter 101) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, it was only a short time ago that the report of the Select Committee on Matrimonial Causes whose recommendations this Bill would implement, were submitted to this House and in moving that the report be adopted I spoke at some length on the recommendation and I do not want to repeat myself. There are, however, two particular points I would like to refer to because I think they are rather fundamental points as far as this Bill goes. The first is whether or not the measures in the Bill amount to proposals for easy divorce. That is of course for Hon Members to deliberate on but I would like to reiterate personally that I do not believe that they are proposals for easy divorce. The Supreme Court will adjudicate on petitions and as Members who are familiar with the Court will be aware that lends a certain gravity to the proceedings, and the grounds on which a divorce may be obtained are, I think, carefully defined and tightly defined. It is true, of course, that it will be possible to obtain a divorce in circumstances in which at present it is not possible to do so and that is one of the major purposes of the Bill, obviously, but that is not the same thing as an easy divorce with the imputation that the word easy contains. The other closely related matter I would like to speak to, Mr Speaker, is whether or not the principles or the proposals of this Bill will have the effect of undermining the family as a fundamental unit in society because I think that is closely related to the first point and a very important one. It is a matter which obviously needs to be considered very carefully. I can recall myself that when the Committee was hearing evidence there was one witness, one distinguished witness, who made the point that the concern was not merely for the present but for future generation, or words to that effect. I think in any important matter or status, Mr Speaker, and that is what the law as to marriage is about, it is about status, individual status, I personally believe it is important to look that far ahead, to look to future generations and see what effect the proposals will have. But again while it is a matter for the House to deliberate on, I do not believe that the effect on this revision of the Matrimonial Causes Ordinance will be to undermine the structure or the fabric of the family. Also, I have reservations, I cannot put them any more strongly than that

because obviously I do not know enough about it and one has to be the expression of the sociologist, but I have reservations about whether legislation of this nature really has that effect in other societies. I say whether the legislation has that effect in other societies, there may be other causes. The purpose of the Bill is to grant relief where marriages have already broken down not to encourage them to break down. If it is true in other places that people do have an easier or a less committed approach towards maintaining their marriages and maintaining their families, then I do not really think that it is because the law has created a more casual attitude, I think the causes are deeper than that and Members may well think the same thing. I think that depends on one's social attitude, one's customs, one's religious convictions. And I repeat what I did say when I moved the adoption of this report, that it is very clear to me, I think it is clear to people from outside Gibraltar that have the advantage of living in Gibraltar for a time, that people here will not forego their social or their religious convictions and commitments to their families simply because a change happens to be proposed to the law as to Matrimonial Causes. Those are two particular matters I wanted to refer to, Mr Speaker, but there are other matters I would like to speak about which has been raised but they are matters of detail such as what is meant by the term unsoundness of mind, for example, and obviously they are more appropriate to be dealt with at the Committee Stage. I should also mention, Mr Speaker, and I think the Hon Chief Minister has already indicated, that the Government will not be seeking to have the Committee Stage of this Bill taken at this meeting of the House. 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 P J ISOLA:

Mr Speaker, I rise not to speak on behalf of my elected colleagues at all but to give entirely a personal view on the Bill before the House and in doing so let me express my amazement at the statement of the Hon and Learned Attorney-General that this Bill does not provide for easy divorce. Mr Speaker, I do not object, obviously, and I respect people's views for wanting to have the divorce legislation streamlined having accepted that legal divorce should be available and I can appreciate the logic of the Bill before the House but there is no question about it that the Bill before the House which is in many respects similar to the Divorce Reform Act of 1969 in the United Kingdom, is an avenue for easy divorce and I put "easy" in inverted commas because it provides so many grounds, although there is only one, irretrievable breakdown, but it provides so many grounds in which this can be found that it is a comparatively easy matter, Mr Speaker, to get a divorce. I agree that we have not got to the stage to which Russia got to

that you just ligned up and you were divorced. Divorce by consent, fullstop. I agree we have not got to that, Russia did, then when they saw the effect on the family, they saw the effect on the State, they went back on it and now they have to do a little more to get a divorce than what they used to, as I understand it, I am not an expert on Russia, Mr Speaker, but please; please, do not say that this is not in effect providing easy divorce in Gibraltar. I can respect the Hon and Learned Attorney-General's view of his experience about Gibraltar and of him saying that in his view, having seen Gibraltar, having seen how strong the family is in Gibraltar, he thinks we have nothing to fear. I respect that view and I hope he is absolutely right for the sake of Gibraltar. But what I can tell the Hon and Learned Attorney-General that what he said that what he is saying is not proven, put it that way, by what has happened in other places where the family has been a strong unit or used to be, but which has been undermined by successive pieces of legislation allowing easy divorce. It is an opinion anybody can hold and I respect other Hon Members' opinions in this House on the matter but I think it is wrong factually to say that the Bill does not provide for easy divorce. Mr Speaker, the Government has brought this Bill before the House following a decision of this House in which by a majority of one on a free vote the House decided that the Report of the Select Committee on divorce should be accepted and approved and the Government had respected that decision. They said: "Well, it is a decision of the House and therefore the Bill is brought to the House, it is put on the Order Paper and the Government's Attorney-General proposes it". But, Mr Speaker, I hope we shall have assurances from the Government that having accepted the decision of the House, they will implement the decision of the House and the decision of the House in accepting the Select Committee's Report on divorce, Mr Speaker, involved accepting the whole of the Report and a very important part of that Report on which comment was made, I think by myself by Hon Members of this House, by Hon Ministers on the other side, was the vital importance of providing marriage counselling services, of the vital importance of giving marriages at the beginning a chance to succeed and certainly, Mr Speaker, if on the one hand you are going to have easy divorce or easier divorce, if that will please the Hon and Learned Attorney-General a bit more, it is equally important for the social fabric of the family in Gibraltar, that the whole of the Report should be implemented and that the Government should announce measures for a marriage counselling service and I hope we will hear from the Chief Minister the arrangements that the Government has in hand for providing this service to go alongside with the implementation of the law. If the Government has accepted the decision of this House to accept the Report of the Select Committee, they should accept the whole of it and not just implement the easy part, which is a Bill that was already drafted, and push it through without making provision for the more difficult part but an equally important part of the whole thing. I think it is the Gibraltar Women's Association have made reference to the importance of marriage counselling and, Mr Speaker, I would refer to paragraph 58 of the Select Committee's Report which deals with this: "The

view of your Committee is that Government should consider the provision and promotion of more marriage counselling services. To the extent that they are supplied or supported by the Government, they should contain, in addition to a nucleus of officials, provision for participation by other persons such as medical practitioners, psychiatrists, financial advisers, and clergymen. They should of course deal, as they at present do, with matrimonial problems, generally, and not merely those where divorce is likely. They could be considered by way of a specific extension to the Family Care Unit". I think, Mr Speaker, it is very important, although I am voting against the Bill, but I recognise it is very important if the new divorce legislation is going to go along the lines that the Hon and Learned Attorney-General hopes, the lines that a lot of the people who have supported hope and that is that it is going to merely provide for that nucleus of really hard cases that should be allowed to divorce, that it is very important that that nucleus of really hard cases should be kept to an absolute minimum and therefore I hope that the Government, I am sure they have made no plans for this I am quite sure but if they have I will be very pleased, but at least let us have an assurance that the Government will, as a matter of urgency since the Bill is not going to be taken through all its stages at this time, that the Government will announce at the same time as we take the Committee Stage and Third Reading at the next meeting of the House, announce the measures and the plans that it has for providing marriage counselling services so that the two can go hand in hand. Mr Speaker, I have given the reasons why I will vote against the Matrimonial Causes Bill and I do not think, frankly, I am going to repeat them. Basically it is my view that easy divorce provides a basis for an attack on the family as the unit of society and therefore anything in my view that attacks that basic and dearly loved concept in civilised society should be resisted and unfortunately because people have been persuaded of arguments that have been used with the Select Committee, that the Select Committee have used, have been persuaded of this, in other countries the rate of divorce has multiplied to an unacceptable degree and causing as a result huge problems in these societies. I mentioned Russia, I should not be very concerned of what happens there but I suppose we should, they are fellow human beings, the problems they have had there, the problems that they are having in England today and the problems, of course, in America where the family unit is now almost totally destroyed. What do we say, that human beings have changed over the years or is it that the sanctity of marriage, the sanctity of the family, the concept of it, we have not done enough to support. I was interested to receive, Mr Speaker, a broadsheet or something, I do not know whether other Members have got it, by people called Family and Social Action, Gibraltar. Anyway, they refer to "a political party has recently published a pamphlet on divorce" - I am quoting from it, in it they say: "It is apparent to us that the influence of the Catholic Church hierarchy has been an important factor in limiting grounds for divorce". The only thing I would like to say at this stage, Mr Speaker, to be absolutely clear on the matter, that my party has not issued any pamphlet on divorce because we are not agreed as to what the policy should be and I do not know whether the GLP/AACR have issued a pamphlet on divorce.

HON A J CANEPA:

The PSG.

HON P J ISOLA:

It is the PSG, I thought it was my Hon Friend here, he has not either. I just wanted to make that clear.

HON A J CANEPA:

That is not a political party.

HON P J ISOLA:

I think you just give yourself a name in Gibraltar and you are immediately heard. Because now I get this and I do not know who they are, Mr Speaker, but I do agree with some of the statements they have made, that is why I am going to quote from them: "And we say why not, 90% of Gibraltar is Catholic". I do not think that is particularly relevant. They complain that the proposed divorce Bill is more conservative than similar laws in other advanced European countries. But they make statements which I would advance and make my own: "Most of these so-called advanced European countries are now facing tremendous problems of delinquency and vandalism which are the direct result of broken homes and consequent one-parent families". They make that statement and they say: "Is this what we want in Gibraltar?" I would say, no, I agree with that statement. Then: "In one Housing Estate in the London Borough of Lambeth 40% of the flats are occupied by one-parent families. The estate is a muggers and delinquents paradise, not only old ladies but even grown men walk the streets in fear even in broad daylight. Is this what we want for Gibraltar? Easy divorce does not help to solve their problems, it only leads them to escape from them. Growing is facing problems not escaping from them, divorce leaves unhappy children. Is this what we want in Gibraltar?" I have quoted from it, Mr Speaker, because I think it puts my fears on the results of easy divorce, that the family units will be under attack and that if that happens then society as we know it could change not in one year, Mr Speaker, not in two years, over a period of years and having said that, Mr Speaker, I will say nothing more and say that I will oppose the Bill although obviously I will respect the views of my elected colleagues and other Members of the House. I am glad that the Committee Stage will not be taken until the next meeting of the House so that we can consider the Bill in some detail, I will have something to say on that, and also of course allow people to say anything they want to say about it or forever hold their peace. Thank you, Mr Speaker.

HON J B PEREZ:

Mr Speaker, I intend to make a very short contribution primarily because I think this matter has been debated ad nauseam and not only that, since I was a member of the Select Committee which looked into this and which in fact made possible this particular legislation which is before the House, really, my feelings on the matter are thoroughly contained in the Report which was debated in the last meeting of the House. However, I think I must comment on some of the points that the previous speaker has made to this debate. Primarily when he says that he is of the opinion and he thinks that it is quite clear that this legislation will in fact provide for easy divorce. I regret, Mr Speaker, that I do not share that view and the only thing that I would say to the Hon Member that is in fact clear as far as I am concerned, is the unfairness and the injustices which is produced by the present state of our legislation and I would just quote two examples which have been quoted before and that is cases of cruelty and cases of desertion. That there will be more divorces once I hope this particular Bill becomes law, of course there will be more divorces in Gibraltar. I think there can be no doubt about that but that, Mr Speaker, does not mean that the number of marriages that have broken down will be exceeded. I do not share that view in any respect because I do not consider that the Bill in any way will in fact encourage breakdowns in marriages. What I think it really does is it recognises those marriages which have in fact broken down to such an extent that there is no chance of the parties getting together and, in other words, the marriage has for all intents and purposes ceased to exist. I do not consider therefore that one should say leave the law as it is and quote statistics of the number of divorces, say, in the last ten years and pretend to be proud of those statistics because you can say: "Oh, in Gibraltar the family unit is very strong because you only have ten divorces in the last five years". That I think is totally wrong because you are not taking into account the actual number of marriages that have been broken down and I think the injustices which have been apparent on our present legislation I think has been accepted, I would say, by all Members of the House except perhaps by the Hon the Leader of the Opposition. This brings me to the second point that I would like to clear up. Mr Isola says that this has been brought into force by a majority of one. Well, Mr Speaker, that is not entirely correct because the majority of one was only concerned with the amendment to the motion which was moved by my Hon Colleague Mr Canepa and that was defeated by a majority of one. Following that the motion was in fact passed in this House and if my memory does not fail me I think there were six abstentions and everybody else voted in favour.

HON P J ISOLA:

If the Hon Member includes the Official Members of the House he is right, I was really talking about the elected Members who after all represent the people of Gibraltar and the Official Members do not.

HON J B PEREZ:

I am prepared to exclude the Official Members of the House. What I am saying is that the majority of one only came into force when my Hon Colleague Mr Canepa put the amendment to the motion and proposed the referendum. That was defeated by a majority of one but following that the motion was carried in its same wording. The other point, Mr Speaker, is that when Members spoke on the motion I would say that every Member except Mr Isola accepted the recommendations contained in that Report and therefore in no way can one say that this has been passed by a majority of one and that is all I wish to say, Mr Speaker.

HON J BOSSANO:

Mr Speaker, I will also not be taking up a lot of time because obviously there is little new that needs to be said on this subject on which we have already spent a lot of time. But I would like in fact to refute the analysis of the Leader of the Opposition and consequently to reassure him that his fears are unjustified and will not be fulfilled. I would also ask him therefore that in the future, if he accepts the validity of the argument, in looking at whether in fact what is happening is that the family unit is breaking down in Gibraltar or not, he should not do so by reference to the number of divorces granted which will inevitably go up, of course they will go up, and the fact that they go up does not mean that we are giving easy divorce or easier divorce unless the Hon Member says that it is easier to commit adultery than to beat up ones wife because in fact at the moment that is the reason for which one can obtain a divorce but the fact that in a marriage there can be physical violence of one partner and another is not a sufficient ground for divorce and if allowing people to divorce because of that is making it easier then he must think it is easier to do that than in fact to commit adultery but I do not see the logic of that analysis. I think the way to look at it, Mr Speaker, and it is the way that I would like him to look at it in order to reassure him that the danger that he sees happening will not happen is that if he accepts that today there are at least 100 families in existence who theoretically in law do not exist because one or both partners are in law married to somebody else. That is the situation we have in Gibraltar, there is in fact a very strong family life amongst separated people some of whom have got grandchildren by their second "marriage", which is a marriage in fact but not in law. That shows the stability of the family life in Gibraltar because in fact one would have thought that that would be an impossible situation to sustain and it has been sustained but all that we are doing, I think, is not increasing the rate of separations but in fact legitimising unions that have taken place after separation and really, Mr Speaker, the only ground on which one can justify the existence of divorce is on the grounds that the people desire to get married because that is the only reason why they need to be divorced really in order to get married. If they do not

intend to marry it does not really make any difference whether they are separated or divorced because it does not really change anything. I think the fact that all the evidence that the Committee had was precisely from people who felt that the status that they had of living with somebody with whom they were not married was something that they felt should be put right in the eyes of society because they felt it made social life and relationships with other people put it on a proper footing, shows the stability of the institution and the fact that some of the people who came to the Select Committee said that they were not prepared to invent stories to get a divorce shows that this is something that is not being taken lightly and that this is something that is responding to a serious need in our society and I am confident that time will prove those who support the Bill to have made the right judgement.

HON A T LODDO:

Mr Speaker, I will also be brief. There is very little that I would like to add to my contribution the last time we debated this. One thing I would say and that is that I do not believe for one moment that there is any other or there can be any other objection to divorce, let alone reform to the divorce law, other than religion and I will accept that. If on religious grounds you object to divorce I accept that and I respect it but that is the only thing I will accept as an argument against divorce. We have heard from my Learned Friend Mr Isola that in western society the divorce rate is going up at an alarming rate and he maintains it is because the law on divorce is easy. Mr Speaker, this is a chicken and egg situation. Is it because divorce law is easy that you have more divorce or do you make easier divorce laws because you require them, the demand is there? Mr Speaker, I believe that your divorce rate and your breakdown of marriage has nothing to do with the law that you have. I believe that the divorce rate and the breakdown of family life is to do with the society in which you live. If you have a very sophisticated, a very affluent society where material interests take precedence over anything else, then you have the breakdown of the family life. If parents are too preoccupied with going out to work not to make a living but to be able to afford two cars, a motor cycle, a video, three colour televisions and all that, that is when you begin to get a breakdown of the family. If you have a family unit where the children return home to an empty house at a very tender age when they need the parental control and the warmth of the home, if you have that situation then you get the breakdown of the family life and that will lead to divorce. Otherwise, Mr Speaker, I do not believe that divorce laws encourage divorce and if we are going to go into statistics, Mr Speaker, I will quote statistics. It is proved that a lot of marriages, in fact, the vast majority of marriages that break down the first time are a huge success the second time round. But, Mr Speaker, I frankly do not believe all the statistics I read or hear. Mr Speaker, I have nothing else to add, I will be voting in favour.

MR SPEAKER:

Are there any other contributors?

HON A J HAYNES:

Mr Speaker, I have a short contribution to make and this relates to a circular sent to all Members by the Gibraltar Women's Association on the subject. I think they have raised a very valid point in respect of the minimum age for marriage. In this respect I shall be moving, at a later stage, a further amendment to Section 11 of the main Ordinance which is Section 18 of the draft Ordinance which relates to paragraph 52 of the Report. I am sorry it sounds complicated, Mr Speaker, and in fact it is one of the other points I would like to make. I believe that an amendment as long as this one should really come as a new Bill in which you see both the old and retained parts of the Ordinance and renew amended parts of the Ordinance rather than have this constant to and fro between a draft, a main Ordinance and a Report and for assimilating purposes, I should say, it would be more convenient to have it all in one. Having said that, I will be proposing an amendment to what is Section 14 of the Ordinance, I shall be abstaining on the whole of the amended Ordinance for all the reasons given at the proposed amendment by my Hon Colleague Mr Canepa, at least in this venture, who asked for a referendum and to which amendment I still subscribe and I shall therefore abstain on the Bill as a whole.

HON G T RESTANO:

Mr Speaker, also a very short contribution. When the motion was first brought to the House by the Hon Mr Bossano I was of the opinion then that this matter should come for referendum, this is how I voted when the Report of the Select Committee was brought before the House and the amendment was put in by Mr Canepa and I still hold the view that rather than the House passes the law as it stands, the people of Gibraltar should have been given the opportunity in a referendum to decide how they wanted the divorce laws or if they wanted the divorce laws changed and therefore as I still hold that view I shall be abstaining on the whole Bill.

HON A J CANEPA:

Mr Speaker, I shall also be abstaining for the same reasons which the Hon Mr Haynes and the Hon Mr Gerald Restano have adduced.

HON MAJOR R J PELIZA:

Mr Speaker, I think I expressed my views previously, my personal views on divorce, and I am sure the House does not want to hear them again so I am not going to repeat them.

Nothing has happened since then, Mr Speaker, which has led me to change my mind as to my stand on the question of the people of Gibraltar having the final say on this matter and as that, unfortunately, has not been carried by this House I have no option but to use my almost protest vote by abstaining.

HON CHIEF MINISTER:

Mr Speaker, just a few matters of logistics and the Report. In the first place, no arrangements have yet been made with regard to extending the existing marriage counselling service which is provided under the Family Care Unit because a vote has not been taken on the Second Reading of the Bill and until that happens there would be no justification in doing that though, of course, the result is not unpredictable particularly as the statements of abstention appears to increase which means that the majority is likely to be higher. But, anyhow, not only is it intended to add to the marriage counselling services if the Bill is passed or rather arrangements made once the Second Reading of the Bill is passed if it is passed in the affirmative, but that I think that would not be sufficient to carry out I am sure the spirit of the Report of the Select Committee. I think the Government is certainly prepared to discuss with religious bodies for a common approach and design and their help as well as doctors and others provided in the Report, in order that the best possible counselling service particularly if volunteers are prepared to contribute it would be much easier and, of course, the Government will give the necessary support and will bring whatever votes are required before this House to provide that counselling service which I agree must go hand in hand with the enactment of the law. We have the whole of the summer recess in front of us for people to make representations on particular matters so that when we go to the Committee Stage the Bill comes out with the best possible results. There may be different views in different respects. The other thing, of course, is that it was natural that if the Report was produced by the Attorney-General and moved, it is an option that he should vote for it but in respect of the substantive Second Reading of the Bill I have directed that the two Official Members will abstain. It is our business, with the greatest respect to them, as to what happens and we do not want it to be said that we need the support of people whose duties are very welcome in this House but who really are not directly concerned in this matter other than to make sure that the Bill is a correct one from the point of view of the legal drafting and that we get the necessary advice as we go along in respect of the various sections to which there may be amendments to consider. The Hon Mr Laddo made two very important points. I won't go into the principles of the Bill, they were discussed generally last time but I am bound to say that I must agree with the Hon Mr Laddo on two points. First of all, that the society in which we live is the direct factor of the result of the break-up or otherwise of the home and apart from that being a statement which I think can be reasonably accepted and he has given particular instances of where it breaks and so on. There are

communities who have had divorce as part even of their religious laws, who have family units much closer than others who have fulminated against it. Finally, I think in reference to the second marriages I think he has been attempting, no doubt indirectly, to make good that famous statement by Oscar Wilde that when a man marries a second time it is the triumph of hope over experience.

HON W T SCOTT:

Mr Speaker, I also do not intend to keep the House long because we have gone through lengthy diatribes on at least two occasions dealing with the same subject, except to make a couple of points. The first, I think, is as a result of the Report and the draft legislation contained within the Report and the results that that had in the voting procedure of the House, the Government obviously was under a commitment to introduce the relevant legislation at an early stage and for that, I think, I am certainly grateful on two counts because I believe intrinsically in the principle of divorce and secondly because I was a member of that Select Committee. We are not talking here of party policy and AACR party policy, we are talking about Government commitment and I would have thought that the commitment of Government was to act collectively and in its collectivity have all the Members of the Government vote for this piece of legislation.

HON CHIEF MINISTER:

Perhaps he will explain it again, I do not understand the commitment.

HON W T SCOTT:

Government acting collectively and proposing this Bill to the House have the collective responsibility and the individual responsibility for all of the Members of Government to vote for this piece of legislation.

HON CHIEF MINISTER:

I am afraid the Hon Member is completely wrong. This matter has been put forward through as a matter of conscience. They will be having perhaps next week or the week after a debate in the House of Commons on hanging in which no doubt there will be a measure produced by somebody perhaps from the Government if it is the Government who are now saying that it was part of some of the people who took part in the elections attempting to reintroduce capital punishment and that will not bind the Government itself. I think the Government has a duty to accept the Report of the Select Committee and produce the Bill that the Select Committee produced. It does not bind the conscience of Members because it is brought by the Government because the Government is the machinery for producing the legislation. It will be a free vote on the Second Reading as it was on the Select Committee and there is no more reason why the Government

should be committed collectively than the Opposition should be committed collectively to oppose. I think the two things go hand in hand. I think that the position, with the greatest respect to the Hon Member whose remarks I always listen to with great attention and respect but I think he is slightly wrong there. The Government have got a commitment to carry out if there is a Second Reading positively, to carry out the recommendations of the Select Committee. That I have already stated and that was made by the Leader of the Opposition regards counselling services and the Government have said collectively, as the body to produce the build-up or the logistics for the counselling service that if the Bill is passed that will be provided, funds will be sought from this House to provide that service in order that the Bill will be backed up by the recommendations of the Select Committee. But let there be no misunderstanding about this, there are Members on this and that side of the House who have views and the matter has been taken from the first as a matter of conscience and it will continue until the end.

HON W T SCOTT:

I am grateful to the Chief Minister for that intervention, Mr Speaker, but I did say I would have thought, that is how I started, I did perhaps qualify. Also I draw a distinction between a Private Members' Bill and a Bill brought to the House by the Government because of the Report of the Select Committee. I think there is a difference between one and the other.

HON CHIEF MINISTER:

If the Hon Member will give way. There is a very great difference in that this arises out of a Select Committee in which Members of both sides are present and therefore it is not a Government measure, it is a Select Committee measure in which all parties were represented.

HON W T SCOTT:

But notwithstanding in fact what the Chief Minister has said, Mr Speaker, it is a Government measure and it is in the Order Paper as a Government measure although perhaps individually the conscience of the Members dictate the way they will vote. As far as I am concerned, the way I still read it it is a Government measure but however, there is only one further point I would like to make, Mr Speaker, in dealing with the whole concept of divorce as such. A point I think which might have been made before certainly in the House and it is contained within the Report and because of particularly something that the Hon and Learned Leader of the Opposition was saying when he was quoting from the pamphlet from the Family and Social Action. He quoted saying: "Divorce leaves unhappy children". With the greatest respect to my Hon Leader it is not divorce that leaves unhappy children, it is broken marriages

that does so and this is precisely the whole concept of this Bill and this Report and as we said in the Report in paragraph 39: "There are clearly cases in Gibraltar where the marital relationship between a man and a woman has ceased to exist". It is very categorical, Mr Speaker, and what we are trying to do is precisely to avoid the situation of having a lot of unhappy children. At least, if the marriage has broken down and there are offspring give the children a chance of a second parent, two parents not one.

MR SPEAKER:

Any other contributors? I will then call on the Hon and Learned Attorney-General to reply if he so wishes.

HON ATTORNEY-GENERAL:

Mr Speaker, I think there is nothing further I wish to add on the debate and I do not propose to make a reply.

MR SPEAKER:

Before I put the question I would suggest that perhaps we should have a division.

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

The Hon J Bossano
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A T Loddo
The Hon J B Perez
The Hon W T Scott
The Hon Dr R G Valarino

The following Hon Member voted against:

The Hon P J Isola

The following Hon Members abstained:

The Hon I Abecasis
The Hon A J Canepa
The Hon A J Haynes
The Hon Major R J Peliza
The Hon G T Restano
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the suspension of Standing Order 30 in respect of the Control of Employment (Amendment) Ordinance, 1983. In doing so I wish to explain the reasons for this motion. The subject to which the Bill relates is one over which concern was recently expressed in this House. The Government is also aware of a measure of public concern about the subject. It was therefore desired to place the measure before the House at the earliest opportunity although the Government does not wish to take it through all stages at the present meeting but it does want to give Members the opportunity, as I say, to consider and study it rather than leaving its introduction to the autumn of this year. Sir, I move accordingly.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

THE CONTROL OF EMPLOYMENT (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Control of Employment Ordinance (Chapter 33) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I beg to move that the Bill now be read a second time. The Control of Employment Ordinance was intended, and I think it is widely recognised as having been intended, to require employers to obtain work permits to employ staff to undertake clerical or manual or similar work unless the workers are residents of Gibraltar. As Hon Members will be aware some employers have sought to circumvent the scheme of the principal Ordinance by engaging staff and appointing them as company directors for whom the requirements of the principal Ordinance are not intended to apply and do not apply. These workers were then engaged on manual or clerical work in the same way as any other employee in such a capacity. Mr Speaker, their appointment in these circumstances as directors is plainly a device.

The function of a director in a small company as well as in larger ones is to direct the affairs of the company, for example, to make decisions as to the course of its business and in smaller companies also to perform the function of management whereas in bigger companies those functions are sometimes separated. But the workers with whom this Bill is aimed at are in no sense directors of companies, they in no sense perform such functions. The amending Bill is therefore intended to prevent an abuse of the present principal Ordinance and of the scheme of the present principal Ordinance. I may say that personally I do not agree, it is a matter of legal opinion I think, but my own personal legal opinion is I do not agree that the device of appointing a worker as a director necessarily makes the employment of that worker without a work permit legitimate and in point of fact my Chambers have certain actions in hand which will put this in issue, will test this, because I think the law does distinguish between the role of a director and the role of an employee and I think the law also recognises that a person who is a director can also perform the functions of the employee and may be acting in two separate capacities whilst he is doing each thing. Be that as it may, the Government considers it desirable to put beyond argument the principle in the main Ordinance and that is why this measure now appears before the House. The amending Bill defines who is a worker and it also defines who is employed as a worker. It has to define who is employed as a worker because when you look at the principal Ordinance where it controls his employment as a worker, there is nothing wrong with a person being a worker privately on his own account and not for profit, what the Ordinance is concerned to control is the employment of the worker. This amending Bill defines who is a worker and it further defines who is employed as a worker. The definition provides that if in fact a person is employed as a worker it will be immaterial that he also holds an appointment as a director or as a principal in a company or a firm and in order to draft widely or any other position which is not the position of the worker and that is really the main point of the Bill. It would be a mistake, however, not to recognise that there are many small companies which have persons who are bona fide directors and those bona fide directors do from time to time undertake necessarily and I think quite reasonably, clerical or manual functions in the same way as I said before that in a smaller company the director sometimes undertakes management functions, I think in a very small company of necessity they sometimes do undertake clerical and manual functions. A typical example is where you have a family shop which may very well be incorporated for reasons of administrative convenience and financial reasons, and the husband and wife may be directors of the company and at the same time they may very well be employees of the company working for a wage and the work they do may be clerical or it may be manual work, not in any sense director work. The other consideration which I think is important, Mr Speaker, is that we do have the situation of offshore companies and directors of offshore companies may from time to time come to Gibraltar and those companies may be of such a size that they do not want to have to employ separate workers and they may from time to time want to do work of a clerical or a manual nature as reasonable incidence of their

directorships. The Bill does not think to hamper the activities of these persons, these bona fide persons by requiring them to submit to the scheme of the work permit, that is not the intention of this Bill. On the other hand in order to administer the more stringent definition which the Bill seeks to put into the Ordinance, I do think it is reasonable in this instance and I know that one has to be careful about shifting burdens of proof but in this instance to make the scheme workable I do think it is reasonable to put the onus on the particular employer to be able to show if the issue arises that a person is a bona fide director or a principal of the firm and that the work that that person is doing is a reasonable incidence and a normal incidence of his function having regard to the small size of the business, and I think that genuine directors will have no cause for concern in the administration of these requirements. If I can just be clear on that, Mr Speaker, what the Bill is proposing to do is to say on the one hand we define workers so explicitly that we make it clear that the fact that you are a director does not release you from the obligation to have a work permit in respect of you, that is the general proposition. Then in order to cater for the case of the genuine director I have referred to, the small company director, the offshore director of a shop, you say that a person by way of defence may show that he is not breaking the law if he can show that he is in effect a bona fide director who is doing something reasonable and incidental to his business. The opportunity has also been taken in presenting this Bill, Mr Speaker, to deal with one other matter of proof. I mentioned before that the scheme of the Ordinance is to control the employment of workers, and that means that in a prosecution one has to prove that a person holds employment which can be a difficult thing to do, it can be easy enough to prove that a person does certain types of work in fact but it is another matter to go further and say not only does he do those types of work but he also stands in an employee relationship in doing them and the Bill therefore contains the provision that where the prosecution in a case under this Ordinance proves that a person is doing the kind of work which is described in the Ordinance as the work of a worker, it is up to him to show that he does not stand in an employer/employee relationship. Mr Speaker, as Members are aware it is not intended to take this Bill through all its stages at this meeting. It has been prepared as a matter of urgency because there is an area for concern but I think the Government's view is that it is important that Members should have due time, of course, in which to consider the proposals and it is therefore intended to deal with the Bill in Committee at a later meeting. Sir, one other matter I have mentioned which is not really concerned with the principles of this Bill but with your leave if I may refer to it. The Government is also aware, of course, that this is not the only area of concern, there are other areas which the Government is presently looking at. 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 P J ISOLA:

Yes, Mr Speaker, I wish to speak. We are supporting this Bill but we find it thoroughly inadequate as not dealing with the main problem it wishes to deal with and that is foreign labour working in Gibraltar under one means or another and I think it is appropriate that I should get up and speak on behalf of the Opposition in this matter to illustrate the difference between a lawyer acting as a professional man and giving advice and a lawyer who happens to be a politician and I am sorry that certain Members of this House do not appreciate that distinction and I would refer to the Minister for Economic Development and my Hon Friend Mr Joe Bossano as well. Let me make it absolutely clear to Members of this House that until we have full-time Members of the House, until we have full-time Ministers, full-time Members of the Opposition, we cannot prevent people carrying out their calling and a lawyer, unfortunately or fortunately, has to deal with a great variety of problems dealing with workers, dealing with great capitalists or whatever and a lawyer would be failing in his duty, Mr Speaker, if when asked for advice he gives distorted advice or refuses to give it. He should not be a lawyer in those circumstances. I told the Hon Member when he made the remark that I was undermining the position of workers. I did make the point to the Minister that perhaps he should have looked to his right, to the Chief Minister who is also a practising lawyer and also has to give advice to clients and the left to the Minister for Labour who happens to be in business and whose company has also been involved in these matters.

HON CHIEF MINISTER:

I am afraid the Hon Member is misinformed.

HON P J ISOLA:

Well, I am going to say what I have been told by a Government official.

HON CHIEF MINISTER:

I am not here to defend the Minister for Labour and Social Security. If he were here he would be able to do that himself but let me warn him in any remarks he makes about this that there may be a misconception about the Minister for Labour having anything to do with the building company of which at one time he was the director and in fact, manager. He has ceased that function a long time ago although it may not be generally known. The rest, I am not going to interfere what the Hon Member says. Let the Minister be here and let him

answer for it, I am not going to do that. I just want to make that statement because it may be a clear misapprehension which might avoid more acrimony later on.

HON P J ISOLA:

Mr Speaker, I am grateful to the Hon and Learned Chief Minister for his remarks but I can assure him I was not going to say much more than what he will hear I will say only as a means of illustrating the problem that there is under the Control of Employment Ordinance. And to my Hon Friend Mr Bossano I would say, I will deal with the Minister for Economic Development in a minute, my Hon Friend Mr Bossano I recognise that he is a union official and he is paid for what he does in union circles. For example, we have the situation that we only talked about yesterday of the Power Station where he is as a union official rightly fighting for better terms for his members but as a politician in this House he must look aghast at what that site is costing the general body of taxpayers, £1m so far. But I will not criticise him for carrying out his function

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I think he should stick to facts. I cannot possibly be aghast at what is being negotiated or discussed in the Steering Committee costing £1m because in fact no decision of the Steering Committee has cost a penny to anybody. The Hon Member has already accepted, I think, that point. Whatever money is being spent as far as I am concerned is not the result of any payment made to anybody over which the Steering Committee has got any control other than the Chairman which I voted against and he voted in favour, in fact.

HON P J ISOLA:

Mr Speaker, I assure my Hon Friend that I take the point he makes but he must be aghast, for example, possibly at the inability of the Steering Committee probably through the intransigence of management of coming to an agreement which as a result is causing the Government to have to come to this House and vote something like £1m to keep the Power Station going. It is unfortunately the conflicts that arise in our everyday life. I agree the Minister for Economic Development has no such conflicts, he is fine, he just has his job and he is a Minister and he goes to the beach when the civil servants finish, he goes as well, fine, that is his position but I do not think you can say that is the position of any other single Member of the Government or in the Opposition and this is unfortunate. I am not free, Mr Speaker, to say 'give the advice I gave in the matter', I am not free to say it. It would be a grave breach of professional privilege. What I am free to say is that I was asked for advice and I gave the advice on the law as it stood with a particular situation put to me and I cannot say, unfortunately, what I said but what I can say is that the action was taken because of another

situation about which a Government official informed those whom I advised, where Spanish workers were putting marble up on a building in Convent Place and the Government official told me or told him rather and he reported to me, that they had been advised by the company lawyers, and I must mention and I hope he does not mind but this is what I was told, J A Hassan and Partner, that because the company was trading from Spain there was no way by which the Government could stop the workers working because they could not bring the Spanish company in Spain to Court for a breach of the Trade Licensing Ordinance or whatever and he was told "the Government is urgently considering this matter". That was before anything happened on appointments of directors. I know lots of people have appointed directors, I was picked out, my firm was picked out because it made good political sense. Lots of people have done it but it was only done because I was told if that can happen, if the company that was doing Convent Place, and I am measuring my words, is reputed to have connection with a certain Minister in the Government although the Government were very worried about it and they were sitting in Council of Ministers about it, they are not going to prosecute me if I do this, that was the story. I was told, Mr Speaker. But I only tell that story (a) to ask the Minister for Economic Development to measure his words when he is making accusations of undermining the workers' position in Gibraltar and instead of making those accusations produce legislation - they have had enough time, this has been three months or four months overdue - produce legislation that actually meets the problem because it is not just a question, Mr Speaker, if we are thinking, and I think that is what we would all want to do, if we are thinking of protecting the worker substantially in Gibraltar and I think we all subscribe to that and I think the Hon Mr Bossano subscribes to that, if we are thinking about that then a more careful look should have been taken at the legislation that has clearly been done and not just bring a Bill that deals with the question of directors and does not deal with the problem of Spanish firms in La Linea sending their workers into Gibraltar to fit out cupboards or to do work in Gibraltar and because there is no employer about, the Labour Department cannot do anything about it and to stop individuals who are coming in undermining Gibraltarian females who do housework by working in houses on their own and a question was asked, I think, by one of my Friends on this side of the House, a question was asked about how many people are coming in every day, did Government keep any check on that precisely with that in mind? Mr Speaker, the amendment that has been brought to the House only deals with directors and does not deal with the major problems that are affecting the industry and I think that that is a matter for great regret, that these problems have not been tackled and have not been dealt with. I really think the Hon Mr Bossano has great power and he knows it. The People came up with a headline and with a story and that is the hole that has been plugged. Perhaps if the Hon Mr Bossano had said nothing, nothing would have happened, I do not know, but the fact is, Mr Speaker, that this legislation is inadequate and for the Hon and Learned Attorney-General to say it has been prepared in a rushed way when the matter was known back in April, three months, Mr Speaker, and the question of a

company in Spain having their own workers working at Convent Place and putting up the marble there, presumably they were the only specialists who could do it because that was the argument used in the other place - I do not know whether that is the one - that nothing has happened, Mr Speaker, and that was before the problem of directors. I personally think the decision this House has to take is to make it an offence for a worker who should be holding a permit to work without a permit. That is the amendment that should have come to this House and then include in the definition of "worker", director, manager include anybody under the sun and then how can a company in Spain then send workers to do marbles in Convent Place or send workers to do a cold store or people coming in to do work part-time in the streets or in the houses or in the lorries or anything. Make it an offence, Mr Speaker, for a worker, make it a requirement not just as against the employer, keep that requirement, do all that, but let a worker who is required under the Control of Employment to have a permit before he can work, let him be required to hold a permit and then, Mr Speaker, I know the problems of enforcement they are very great because I completely understand the position of the Government and the Labour Inspectors who I understand are on industrial action on this issue, I do not know, I heard it last night in a party. I can understand the Minister for Economic Development and Trade say it is impossible, you would need 1,000 labour Inspectors to catch everybody, I can understand that. I can understand the problems of enforcement in practical terms but at least have the requirement there in law. I do not know, Mr Speaker, if it is constitutionally possible to do this. I would have thought it was because if workers from outside coming to Gibraltar require a permit, I would have thought it w.s. Keep out EEC nationals I can understand that position, but I am surprised that the Hon and Learned Attorney-General should say that this is the only problem, when everybody knows that the problem is much vaster, much vaster than that and it is not tackled in this Bill. All this Bill tackles is directors and in tackling that I know he is getting into more problems and I heard him say and I was very interested to hear that remark, Mr Speaker.

MR SPEAKER:

Heard whom say?

HON P J ISOLA:

The Hon and Learned Attorney-General say that in his view the question of directors, he was not so happy that they did not require a permit. He was not so happy that nothing could be done without changing the law, I heard him say that, and that in his Chambers they were looking at it. Well, let me tell him a secret, I am not either. So it might have been a good thing for the Government to have had a go, I do not know, but what I am saying is that if what we are trying to prevent is not just, Mr Speaker, a loophole for people getting a few people in to do work, not that, but what we are trying to prevent is a general invasion which is very much on the cards

unless Government passes legislation, which is very much on the cards, then the legislation that should have been brought to this House, Mr Speaker, is something to meet that situation and I cannot believe that it is not possible to do that in law. I can believe there are tremendous problems in enforcement. For example, the trade licence was extended yesterday and I asked can one man run a business of plumbing? Would an ordinary man who works part-time require a licence? And it may be in the interest of workers generally in Gibraltar, I know a lot of them do part-time work in plumbing, in painting, to require the licence and give it, well not give it, you have a Trade Licensing Committee but that is another way of stopping a man because if you find a Spanish worker, for example, working on his own, painting a house, well, where is his trade licence, if he has not got it you arrest him or you amend the Trade Licensing Ordinance. I know there are a lot of problems, Mr Speaker, but what I am saying is that the legislation that is coming is inadequate to deal with the problems that are occurring today and the example I gave of Convent Place in Gibraltar is one that has repeated itself, I know, for a fact. A firm in Spain sends five people here, who is the employer? John Smith SA of La Linea. So you go and tell him, you prosecute him, apart from the fact that the Foreign Office would throw its arms up in despair and in horror at the thought of moving across, apart from that, Mr Speaker, they cannot do it, they just cannot do it, they are not within the jurisdiction and what has to be brought to this House is legislation that deals with this realistically, Mr Speaker, and we will support in this side of the House, ruthlessly. That has not been done with this Bill. All this Bill has done, in my view, is to highlight the position of the Leader of the Opposition. It seems to me the only purpose in it. Fair enough, if you want to do it, I have said my position, if I get asked for advice I will give it without fear or favour whether I have got 2,000 people outside the House or not and if I did not do that I should give up both in politics and in my profession, Mr Speaker, and I am sure the Hon and Learned Chief Minister will say the same thing. We are not going to be covered but as a politician, Mr Speaker, as the leader of the DPEG, we accept all legislation, we encourage legislation that will protect the position of the Gibraltar worker in Gibraltar to its greatest degree as it can be protected and we think for those reasons, Mr Speaker, that this Bill is inadequate, we won't stand in the way of its going by, but certainly we are going to give thought, Mr Speaker, and I am glad in a way that the Committee Stage is going to be taken at a later stage because we will give thought to making amendments unless the Hon and Learned Attorney-General assures me that he will be doing it, we will give thought to moving amendments at Committee Stage in this House that really meet the problems that have arisen and have been highlighted by my Hon Friend Mr Bossano's newspaper. But I do not think he had to do it because I think it has happened, from my information, in a great number of cases all over Gibraltar and it is continually happening and I think that requires measures and we support such measures but this does not do that, it is just directors, Mr Speaker. A lot of people would think twice before making

somebody a director of their own company, there are consequences as no doubt the Hon and Learned Attorney-General knows and other Members well know, if there is an easier way of doing it I think they would opt for an easier way and therefore, Mr Speaker, I would urge the Hon and Learned Attorney-General that at Committee Stage we either change the name of the Bill, not calling it Control of Employment, call it Control of Labour Ordinance, and bring in amendments that effectively deal with the problems that we are facing in Gibraltar with this particular aspect of the matter. Thank you, Mr Speaker.

HON J BOSSANO:

Mr Speaker, it was very interesting to hear the Hon and Learned Leader of the Opposition drawing the distinction between being a lawyer and being a politician. I certainly hope that in the future if that is his thinking he should be able to extend that to the distinction between a trade unionist and a politician because I have spent ten years interrupting him whenever he has told me that how can I not take a line here which is the policy of the Transport and General Workers Union who employs me and I have had to interrupt him to tell him that I am employed by the TGWU to do a job of work and that the policies that I reflect in this House are the policies on which I was elected to the House. But I could not see how I could actually come here, Mr Speaker, and propose a piece of legislation and then go out of here and advise those affected by the legislation to strike against it, that I could not see. As far as I am concerned my role here politically is in fact a commitment to socialism which is the same commitment that makes me work for the Transport and General Workers Union and in the Transport and General Workers Union I seek to defend the rights of workers and the interests of workers in their relationships with their employers and in this House I seek to introduce legislative changes which will enhance the position of workers in society and if there was a conflict I do not think I could do it. I do not think I could serve competing interests outside and inside the House but I do not think that I am here elected to the House of Assembly to further the interests of my employers any more than any other Member of the House is. I would accept entirely that the Hon Member would say that he is not here to propose measures of legislation which will give privileges to his clients or to his business, that I accept entirely, but I do not see how in fact he can disassociate the two things to the extent that, for example, he proposes a way of closing a loophole and then he says that it is perfectly legitimate for him to advise somebody how to get round that loophole, then why then close it in the first place, unless all that we are doing in the House of Assembly is creating business for lawyers who then tell people how to evade the laws that they introduce here. I assume we are doing more than that.

MR SPEAKER:

Avoid not evade.

HON J BOSSANO:

The nuances escape me sometimes. I accept that he has been put in a difficult and I think an embarrassing position and I think perhaps his client should have had more sensibility and recognise that they should have gone to somebody else perhaps in the office to get advice but that is another matter altogether. Let me say that I agree entirely with the other point that he has made. I think that although the question of the directors quite frankly is what inflamed most, I can assure the Hon Member, the Gibraltar Trades Council who considered this, was because in fact it seemed and I can tell the House that professionally I also dealt with the firm in question and I was told in no uncertain terms that they were getting very good legal advice and that in fact if there was any attempt by the Trade Union Movement to interfere physically with the work there would be an injunction and damages and lawsuits against the Trade Union Movement and I do not know where they got the advice from but in fact it is not inconsistent with some of the advice the Hon and Learned Leader of the Opposition has given the Government on occasions on how to deal with unions. Although I cannot vouch as to the source it is not altogether surprising but I can tell the House I was told that quite categorically and I do not mind saying it because in fact I will say it to the person's face, the director now. I think the reaction that we had there which was the reaction that was reflected in the people was because it seemed that whereas in the cases that we had reported previously to the Gibraltar Trades Council and the Trades Council had made representations to the Government and so had the employer, in fact, I think the building in Convent Place which was being done by Dell Construction had a marble facing on it put by Spanish workers who apparently supplied and fixed the marble, when that was brought to the attention of the unions and the unions made representations, the workers had come and gone but I understand that previous to that, in fact, Mr Anes who is in that line of business and was facing competition, wrote I think to the Government and possibly to the Leader of the Opposition but certainly by the time he brought it to the unions and the unions went to the Labour Department the marble was up and the job was finished and the people had gone and in fact the reaction from the Labour Department was in fact the reaction that the Hon Member has said, that the workers themselves were not breaking any law, that in fact the employer was breaking the law and that you could not prosecute an employer that is not in Gibraltar and I am not even sure, in fact, whether the law says what is the actual relationship of employer/employee if the person who puts up the marble or the person who put up the roof in the building in Waterport is in fact paid in Spain and employed in Spain and sent out to do something here, I am not quite sure whether strictly speaking he is employed in Gibraltar at all. I can see that the Trade Union Movement in fact has been demanding action on this particular point from the Government but it is not easy to see how it can be done given these complications but we have got, I would have thought, enough legal minds in this House of Assembly, Mr Speaker, to be able to find an answer here if an answer is available at all because

presumably it is a question of drafting legislation that will catch everybody. In the past the question of issuing work permits to workers, for example, has been resisted by the Labour Department primarily, I think, on the grounds that that would give people permanent employment rights in Gibraltar, that is that if in fact the person at the moment, the control of immigrant labour, is through a system of quotas based on an industrial distribution and therefore if there are 400 jobs in the construction industry the individual worker is not confined to the construction industry, he does not get a construction worker permit, he does not get any permit at all, the employer gets a permit to employ a carpenter and tomorrow that carpenter leaves that employer and moves to DOE and provided DOE has got a work permit to employ an immigrant carpenter there is no problem so there is flexibility within the grade that the immigrant worker is and irrespective of the industry in which he works but the control is through the employer because we are controlling the size of immigrant labour in that particular sector of industry. I imagine if you move to a situation where individual workers get a work permit to work in Gibraltar then either you would have to have a much bigger machinery in which case they would have to hand in permits and take out new permits every time they change from one area to another of employment or you would have to do away with the quota system breakdown and have a quota that says 3,000 immigrant workers irrespective of what they are doing and irrespective from where they are and then it would just be a question of saying what is the maximum of immigrant workers that we allow in Gibraltar at any one given time. I can see that creating problems for employers in terms of the distribution of skills because you might then have a full quota and they might not be the people for whom there are vacancies but you cannot fill those vacancies because the quota is already full with people whose skills are not required anyway. I think the argument, in fact, that has been put by the Labour Department that shifting the permits from employers to employees means a completely different system of control is in fact an accurate objection in that I am not saying that it is impossible to do but it requires a completely different machinery from the one where you have got now three Labour Inspectors visiting 100 firms in Gibraltar. You will never do it like that. I think that we need to do, perhaps, something which puts the definition and the onus of responsibility on the place, perhaps, where the person works because presumably if somebody is coming out, for example, to put marble in Convent Place and we cannot prosecute the person who sells the marble well, let us prosecute the person who bought the marble but I think to prosecute the workers for not having a permit is irrelevant. What are you going to do, arrest them and put them in Moorish Castle? They will go the next day and that is the end of it, they will never come back again and the next time they will send another group of workers to put the marble and you are going to be chasing the 7,000 unemployed in La Linea in turn until you have been through the lot of them? Apart from that I can see that even that would not be seen with very benign eyes in the Foreign Office, if we had a long string of

immigrant Spanish workers coming across the frontier and ending up in the Moorish Castle every day. I can really see that it is the customer at this end who should be required to ensure that the contract that he gives out just like the Government itself, the Government itself as part of its condition of issuing contracts requires that the person tendering for that contract has got the necessary permit and is paying the necessary rates of pay. I think that we must think of extending that so that private clients in the private sector and I think they have to accept that, Mr Speaker, because I think the thing that annoyed me most about a situation like this and in fact I can tell the House that I told that particular person where we had quite a lot of harsh words to say to each other, is that the businessman that uses illegal labour because it is cheaper, when he finishes his building would still expect that he should be protected so that his customers buy from him and they do not go over there and buy the stuff cheaper and I think that we have got to accept that we are all in the same boat and the same law must apply to all of us and I accept that people must be persuaded to buy in Gibraltar but then the suppliers in Gibraltar cannot expect to enhance their profit margins by they sub-contracting to firms in Spain who can come in and do a cheaper job and I think it is important to put a stop to this because in fact although there is a great deal of concern I do not think the practice is as widespread as it could be but I think if it really snowballs because I think a lot of people are sitting by the sidelines and seeing what are the repercussions politically and socially and in a number of respects because I do not think it is just a question of breaking the law it is also a question of getting a lot of adverse publicity that perhaps may worry some firms that might consider bringing in labour from outside. I think they are waiting in the sidelines and if they think that all that is going to happen is there is going to be a lot of hot air in this House and nothing practical is going to be done to stop it, then there could really be an avalanche and then I can see both a serious threat to employment in the private sector and a serious threat to the survival of a lot of small businesses who if they lose a bigger chance of their turnover than they have already lost, that might be the thing that breaks the camel's back and tips them over the edge so that their overheads and their other costs swallow whatever remains of their business and they just left without and in particular, Mr Speaker, we are facing today a situation in the construction industry with what happened to the development programme and with the lack of confidence for private investment in the private sector because nobody is quite sure what is going to happen with the frontier in the long term and what its implications are, we are really facing a situation where the construction industry has shrunk to such an extent that if it shrinks any further we would then be faced with having to ask Spanish contractors to come to Gibraltar otherwise it would be impossible to get any work done because there would be nobody left here to do it. I really feel that this is one of the most serious steps that we need to take and although I myself do not like the idea of it being delayed till the next meeting

of the House because of the urgency, I prefer quite frankly, that that loophole should be open for another three months if necessary and then closed definitely once and for all than we should half open it and half close it and then have to come back in a year's time and have another bash at it.

HON MAJOR F J DELLIPIANI:

Mr Speaker, the Hon Mr Bossano has highlighted some of the problems that the Department of Labour has in the question of control of employment because that is the only powers that we have, on control of employment, but I think that the question of alien or foreign workers working in Gibraltar must be closely tied with the immigration side and unfortunately immigration borders on the Foreign Office affairs matters. I would like to see a stamp which was put on my passport when I went to the Commonwealth Parliamentary Association in Bahamas which said I must not engage in any occupation and that is the kind of stamp that we need in Gibraltar for everybody who comes into Gibraltar, gainful or otherwise, because they might say that they are not being paid. In the Bahamas stamp it said "gainful occupation" but here people are so clever that they come in and they say: "But we are not being paid". That is the kind of stamp that we have to have in Gibraltar but unfortunately it is not within our powers and I cannot imagine the Foreign Office allowing us to put that kind of stamp. So we have to do things within the limited scope that we have in the Control of Employment Ordinance and by plugging as many loopholes as we can in the Control of Employment Ordinance and also in the trade licences because in the case that has been mentioned on the question of the marble the Spanish firm wrote to the Department of Labour requesting permission to put up this marble because it was a supply and fix contract and the Department of Labour passed that request on to the Trade Licensing Authority to see if those people could do it, whether they had a licence to trade in Gibraltar, and the Trade Licensing Department, as far as I gather, wrote to the Spanish firm because the Spanish firm were quite open about it, they wrote, they did not sneak in through directors or anything like that. They wrote quite openly saying that it was a supply and fix contract and they asked permission for the workers to put up that marble and the Department of Labour realising that it could be a matter of trade licensing passed it on to the Trade Licensing Department. I gather the Trade Licensing Department wrote back to the Spanish firm saying no. If there is one thing they are not good at in Spain is in their postal services because I remember sending a Christmas card early in December and I met my friend in March and he said: "I have just got your card today", when he came over to Gibraltar. The firm came here without any permission but without receiving the letter saying no. The position of our inspectors, and I was involved with the inspectors, was that they could not do anything because the people who we were acting against were over in Spain. There is no legislation against the employee. I am not very sure but I will look into it. I think under the International Labour Organisation there is not much you can do about fining employees for this kind of

breach. I think it is against the International Labour Organisation Convention. I think whether it takes two or three months to do this Bill we have to do something and I agree with what the Hon Leader of the Opposition has said that there are other ways and means of coming into Gibraltar and doing work without being a director but the directors thing was highlighted because it was so flagrant that the people were not directors and this is what annoyed people. I was not pointing at him or anything like that and I have not, I have not said a word against him, I have not said one word against him. The other question of the marble did not annoy people so much because they were workers, they never claimed they were directors, this is the difference.

HON W T SCOTT:

It highlighted it.

HON MAJOR F J DELLIPIANI:

I think that what we need to do is to control the trade licensing part. We are not doing this solely because of Restsso, we have been wanting to do something about this for many, many years in respect of other members of the community who have been trying to do this and getting away with it. I have been working on this since I got there in 1981 because I have many problems of people trying to get into Gibraltar especially in a situation where we have unemployment. We could afford to get anybody in Gibraltar before but now we have to look after our own people and the people who have served us well over many years and let me make it quite clear to the Hon Leader of the Opposition. When I went into politics in September 1976 I sold my company, Dell Construction, to Messrs W M Lynn in 1976 so I have no shares in Dell Construction Company Limited. I have nothing to gain, I am like my Hon Member here, a full-time politician. What I am trying to get across is that there are loopholes to every law but what is important here is that we have not got the best form of controlling labour into Gibraltar and that is the foreign affairs connection. If we had that same right which the Bahamas has, which Bermuda has, which New Zealand where my Friend the Attorney-General comes from, I got that stamp too when I went to New Zealand and I was there on the CPA Conference, that I could not engage in any work. That is the kind of thing we need in Gibraltar but can you imagine the Foreign Office allowing us to put that stamp? Never in a million years. We have to try within the means that we have available and we must try and convince the Foreign Office that if we do not deal with this there won't be any jobs for Gibraltarians especially if they go on and close the Dockyard. That is all I have to say, Mr Speaker.

The House recessed at 1.00 pm.

The House resumed at 3.05 pm.

HON W T SCOTT:

Mr Speaker, I have paid particular attention throughout the course of this debate today to all the contributors and it seems to me that there are two things that stand out like a sore thumb. The first and this is irrespective of what the Minister for Labour and Social Security said earlier this morning that he had been looking at this ever since he took office in 1980 and it seems to me to be rather a poor result for three years work where it covers, I think, half a page. This amendment seems to cover, Mr Speaker, only one aspect and that aspect has been gone into at some length by the Hon and Learned Leader of the Opposition earlier on this morning but it omits sadly other aspects that I think every Member of this House is concerned with and rightly worried about. It does not, for example, cover companies that have employees but where the jurisdiction is outside of Gibraltar and my Hon Friend on my left this morning said how invidious or perhaps even impossible it would be to summons a worker, one of 7,000 I think he mentioned, because these people can continually come in on a daily basis. They come in once then perhaps they are either thrown out or prosecuted or whatever and then they are replaced by other people but I would suggest to him that the word spreads round like wildfire and if it is necessary to protect the Gibraltar worker, the worker in Gibraltar, to that extent then it is right that we should take those measures as well where the worker himself can be prosecuted if it is to mean that by doing so we are protecting the resident worker in Gibraltar. Mr Speaker, I also look at this with the background of the over 100 youths that we have unemployed in Gibraltar. I look at this because there are other loopholes, as I understand, where a number of shops in and around Main Street have already clandestinely employed young Spanish men and women and by doing so they do not create those vacancies or give the young Gibraltarians, man and woman, the opportunity of filling up that vacancy for whatever reason the employer might or might not have but this is something that has to be plugged as well, Mr Speaker, because my information is that as soon as a small company or a small shop is found to have employed clandestinely a Spaniard without any work permit the matter is reported to the relevant Department of Government, that is the Department of Labour and Social Security, whereupon a Labour Inspector goes to the premises, sometimes on occasions he might find the worker still there, sometimes perhaps the owner of the shop having had pre-warning advises the worker to leave but in any event there is a report that is made by the Labour Inspector to the Department concerned and I know it has happened and I know it has continued to happen up to a short while ago but I see no evidence of any prosecution which I understand under the Ordinance I think it is a maximum of £500 penalty. I see no prosecution, Mr Speaker, having taken place and this is sad for Gibraltar because we might spend a lot of time here going through legislation of this nature and other legislation and yet the law is not enforced and I suspect, Mr Speaker, that perhaps the Labour Inspectors have adopted this industrial action precisely because what they do has not been implemented and has not resulted in any

subsequent prosecution by the relevant department and I think we are all wasting our time here, Mr Speaker, if we are going to talk at length on items of this nature to protect the Gibraltar worker if the law is not enforced and I would like at some stage either from the Hon and Learned Attorney-General or perhaps the Minister for Labour and Social Security who sadly is not here and I will give way readily.

HON ATTORNEY-GENERAL:

If the Hon Member will give way, Mr Speaker. May I ask what the Hon Member means by the relevant department?

HON W T SCOTT:

The relevant department of Government which is responsible to carry on the process of prosecution to the relevant business concerned. Mr Speaker, looking at that factor of the youth unemployed I would have expected that to have been contained here to protect the youth because this is an increasing problem that we have in Gibraltar and Members on my side of the House have been fighting now for quite a long time in addition to this, when an amendment to the Control of Employment Ordinance was first asked for by Members of this House some time, I think it was in the March meeting and again yesterday because we have a two-tiered approach here, this is a youth training programme as well as the Control of Employment Ordinance and these figures of the young unemployed people are rising every month, they are continually rising and they are at the highest figure certainly that I can remember shortly before the school term ends. God knows what that figure will be come September when there will be all the school leavers who have not been able to find a job registering as unemployed through the Youth and Careers Office. Mr Speaker, the other point I think which has been laboured by a number of Members this morning was the one dealing with how can you prosecute a company, an employer, that does not trade in Gibraltar, that is not resident in Gibraltar? Well, Mr Speaker, I do not know, it is up to the Government and perhaps the Hon Attorney-General but a simple solution to me certainly would be to define the word "employer" within the Control of Employment Ordinance and that is to define it to take in a customer because he is the man, he is the entity ultimately responsible. It is the customer at the end of the day that is going to pay for the goods or the services given and that is the man, that is the entity, that is the company that has the overall responsibility. Whether it is Dell Construction or Restsso it does not really matter but they have the ultimate responsibility and I would like Government to seriously think about this in re-defining the word "employer" within the context of this particular Ordinance. Another thought occurred to me, Mr Speaker, when these Spaniards are employed here, whether it is in Convent Place or whether it is at Waterport, it does not really matter, but I wonder what would happen if an accident occurred which involved a member of the public. Whether the original building company, the original contractor, who is presumably

covered through a public liability policy as he ought to have been in law, whether that would cover workers who are not registered workers in Gibraltar. Finally, Mr Speaker, I do not think I ought to let this occasion go by without saying two things. The first is when I originally posed the question in May, in fact, and again yesterday it was the Minister for Labour and Social Security who replied to my question and I would have thought it would have been his responsibility to introduce this amendment and not the Attorney-General so perhaps I might have an answer to that. The second, and I am not given, Mr Speaker, as I think all the Members of the House are well aware, to personal attack but when a personal attack is made to a Member of my party and I think the Hon and Learned Leader of the Opposition is very much capable of looking after himself but on occasions like that it would be less than fair if one would not jump to his defence as well and rightly so because this morning the Hon and Gallant Major Dellipiani said that, I think he said it was in 1976 that he had severed his connection with Dell Construction and I think the expression he used was that he was no longer a director or had any shareholding.

MR SPEAKER:

No, he never mentioned either shareholding or directorship. He said he was not interested in the company and that he received no financial gain but I do not think he either mentioned directorship or shareholding. He said he had no connection with the firm.

HON W T SCOTT:

Yes, he did say that at a later stage that he was the same as Mr Canepa, a full-time Minister. Well, Mr Speaker, I would have liked him to have been here to hear what I have said and perhaps his colleagues will repeat it to him. I have evidence, Mr Speaker, of his signature or what looks very much like his signature on a Dell Construction Company cheque dating back only a few months ago and I think he ought to be given an opportunity to answer that and perhaps expand on what he said this morning, I think it is only fair.

MR SPEAKER:

Are there any other contributors?

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I would like to say a few words and I would like to start by tackling an issue that took considerable time this morning on this particular Bill which is due to the conflict of interests of Members of this House since it appears that the matter has been hastened because a Member of the Opposition was involved in his professional capacity with a company that acted in a manner that precipitated the Government to try and take steps and protect labour in Gibraltar, a

protection I think which this House is unanimous on and the only difference is to what extent should we extend that protection and make it as effective as possible and I think on that we all agree. The only thing that strikes me as strange is that whilst one side of the loophole which has come to light is being plugged the other side of the loophole which has also come to light is being left as it was and unattended to and that obviously I think calls for some explanation and explanations which up to now have not been satisfactory from the Government side and I think the Government should be more explicit as to why it is impossible or they think it is impossible to plug the other hole because the arguments they have used so far, in my view, are not convincing and I will address myself to those arguments in a moment. I think I should start first of all on the question of conflicts of interest. It is a known fact, Mr Speaker, that for as long as Members of this House do not have to resign their work whilst they are in Government, which is much more serious than being in the Opposition because after all in Britain, even in Britain, Members of the Houses of Parliament are not required to resign from their own occupation so we might say that on this side of the House we are totally free from that side of the problem. It is the Government which is the one that really carries the burden in that respect in that in every democracy that I know of I think Members with Ministerial responsibility have to resign their other occupations and of course Members of the Opposition as in Britain have to declare our interests although that is not compelled by law and we have Mr Enoch Powell in Britain who totally refuses to do that but Mr Enoch Powell is always on his own in many issues and one has sometimes to admire the courage of his conviction even if we disagree with him on many things. But, anyway, Mr Speaker, dealing with the conflict of interests. If it is going to be impossible for a member of the community to stand for election unless he is going to resign his other occupation it is going to be almost impossible for anybody to be able to stand for election because, by and large, people have a family. If you have a profession or engage in any other kind of work it is obvious that there are times when he is going to change hats particularly, I think, in the case of barristers and lawyers that is very obvious and it is not something new. I remember the famous case of the lighthouse when we had, I think it was the Chief Minister on one side and the Leader of the Opposition on the other and I do not know who was standing for whom and who was looking after the interest of the Government or who was what. Mr Speaker, it is not something that has suddenly arisen and it is something that we have with us today and it is something that perhaps we shall have to live with for many years to come. I would like to see, of course, as soon as possible, Members of the Government having to resign their other interests, I think this is absolutely vital. But that is moving away from the point, Mr Speaker, I will not labour it any more only to say that certain insinuations have been made that the advice that my Hon Friend gave to his client was perhaps that he should go ahead and act in the best interests of his company. One does not know, in fact, if that is what he said. Obviously he is not going to divulge here

what he said but one does not know whether he said that, perhaps he said, and this is possible: "I do not think it is in the interest of your company to do that because even if you save a few pounds" - or whatever it may be - "your name is not really going to gain very much by doing so". It is possible that that is the advice he may have given. It is also possible that the company did not take that advice. So how can we here accuse anybody of giving advice of that nature when we cannot get to the facts. I think it is unfair to do that and I suggest that anyone who had it in mind or made such a statement should withdraw it because in conscience he cannot say it and in fact I believe that perhaps that is what he said because if you look at it logically it is what an intelligent lawyer would have told his client: "Don't do it". This is what an intelligent lawyer would have told his client because in the long run he stands much more to lose. You have seen it, the name of that company has been bandied around and I do not think it is worth really whatever he might have saved, it is not worth the goodwill that he has lost. There are many clients in Gibraltar who know what the products are, lots of workers who may well black, put it that way, products coming from that company because it was of course wrong that he should have done it and as we can see it is so wrong that we are supporting legislation to stop it and the very barrister who advised his client is acting in his capacity as a Member of this House to make sure that this does not happen again and that no client can refuse the sensible advice that perhaps he gave him not to act in this manner. But what does the client do? The client looks around and he says: "Mr so and so, you tell me to do this but look around at the other companies, they are doing it, they are getting away with it, it has been going on for some time now, your advice is wrong, no one is going to put my name in the newspapers". Little did they know, of course, that being a client of Mr Peter Isola his name would appear in the paper not because of him but because somehow it was getting at the Leader of the Opposition. That is the true situation of the case, Mr Speaker, that is the true situation of the case. We now see that the Government, according to the Minister for Labour and Social Security, have been aware of something like this going on. The Minister said so earlier, since 1981 he said: "I have been trying to find out how to plug this hole", since 1981. There is a lot of poverty of imagination in this Government to have been since 1981 trying to find ways and means of stopping this and then say: "even now we can only plug one hole". And we find the reasons that they give being listed one after the other. He said: "If I could only have a stamp which says one is not allowed to engage in any activity in Gibraltar, in any gainful activity or taking any job or going any work, that would be the answer". I do not think that would be the answer because no matter how many stamps you put on passports unless, first of all, there is legislation to prevent a person from doing it one way or another he is going to take little notice of that stamp. That stamp by itself means nothing yet if we have legislation even if we have not got the stamp it means a hell of a lot and so I would, quite honestly, not advise the Minister to

give a lot of thought to the question of the stamp but I think I would give advice to the Minister to think very carefully how to go about to prevent this. Suggestions have been made in this House, I think we must agree that the onus, if there is no other way or even if there is another way we can also make it so, that the onus must fall on the person who knowingly engages a person who is not authorised to work in Gibraltar because, first of all, even if it is going to be difficult to find the individual either because he is working and we do not know who he is or the other person because we do not get to know or there are ways and means of shading it up, the fact remains that he would then be committing an offence and that in itself would be a deterrent to lots of people and we would not have people saying then: "If so and so and so and so are doing it I cannot see why I should not do it", even if the advice of the lawyer is that he should not do it because then the lawyer can tell that client: "That is against the law". I think he would be a very stupid client who would act against the law knowing the consequences. So I would say that the Minister should give reflection to this. I agree with the Hon Member that the other stages of the Bill should be put off, they should try and extend the protection and I would say that is one point that I would do, place the onus on the person who engages labour directly or indirectly. The other thing is of course I would also include labour itself, the individual who is coming and working without the authority to do so. I think he, too, should be put in. We are told it is very difficult to have sufficient inspectors to go round. Well, there again, Mr Speaker, he then knows that he is breaking the law so that is partly a deterrent. Secondly, we must realise that if the workers of Gibraltar come to understand

HON J BOSSANO:

If the Hon Member will give way. The argument that I have heard used against this, in fact, against the question of making the worker responsible is that at the moment workers are not given permits to work in Gibraltar. I would like to have his views on that because that seems to me to have been the strongest arguments used against. At the moment the permit is held by the employer and if a worker loses his employment he loses his right to be in Gibraltar. You cannot just apply this to people across the frontier, obviously, it has to apply to everybody which means you would give 3,000 permits to the 3,000 workers who are here and the permit would be held by them and not by their employer and it is a completely new system.

HON MAJOR R J PELIZA:

Well, I cannot see that being an insurmountable difficulty because just by having a duplicate of that permit or an attachment which can be torn off and one is kept by the employee and one is kept by the employer, I do not see that insurmountable. I think it should be possible to be able to let the individual have sufficient evidence to show to the person who is employing

him, at least he could do so, say: "Show me your permit", and the permit could be produced and he says: "Yes, I am working for so and so, I am just working part-time for you but I have authority to work in Gibraltar", and that in itself would probably even overcome the question of part-time workers.

HON J BOSSANO:

Mr Speaker, it is not a question of being handed a copy, that is not the problem. Anybody can be told that he must have a copy of the work permit. What I am saying is the law does not in Gibraltar require workers to hold work permits today, it requires employers to obtain work permits and therefore if an employee leaves his employer the employer then returns the work permit to the Labour Department but the worker does not have a permit which he holds himself. In a situation where you give the worker a permit which is an alternative system, then in fact somebody working for him, for example, could tomorrow get a job somewhere else and move away with his permit and he would not be able to employ somebody else unless that somebody else had a permit as well whereas at the moment, in fact, I think the system benefits employers and I think he has to understand that there is a fundamental difference.

HON MAJOR R J PELIZA:

I follow what the Member says that at the moment the permit for the individual to work is given to the employer and therefore when the employer ceases to employ him or is dismissed for one reason or another, the worker ceases to have that permit.

HON J BOSSANO:

And the right to be in Gibraltar.

HON MAJOR R J PELIZA:

And the right to be in Gibraltar, correct. I still believe the same situation could hold in that all that happens today, and this is the way we are protecting labour, is that an individual who is working for an employer who ceases to be employed by that employer has to leave Gibraltar. He has no right to work in Gibraltar. Would that be right?

HON J BOSSANO:

Yes.

HON MAJOR R J PELIZA:

That is right. So therefore if he has this duplicate which he has from the employer it is a way of him showing to any person that he wants to work for that at least up to then he has the right to work in Gibraltar. If he is dismissed by his present

employer he would have to surrender his other side of the work permit so it would be impossible for that employee to go anywhere and say: "I have the right to work in Gibraltar". "Alright, show me your permit", and he would say: "Well, I am sorry, I have had to surrender it because I ceased to work for so and so". I may be over-simplifying the problem but I think that there is a basis there on which perhaps the Minister could look at and I cannot go into the details but I do not believe it is insurmountable, I think with some imagination ways could be found in which the onus is not only placed on the person employing labour, directly or indirectly, but also I think on the employee himself if that is at all possible. I think it is vital, Mr Speaker, that this should be done and we should not because we feel that it is going to be difficult to actually trace the people who are doing this that we should not do our possible best. It is obvious, therefore, that if the Gibraltar worker or those working in Gibraltar already are interested in protecting their own livelihood and I have no doubt that they must be, and if they are aware that there is a law which does not allow people like that to come in and work, I think we shall have lots of people who would complain to whoever it is that the complaints have got to be taken to, to say: "I have seen so and so who is working there. He has not got a permit". And then I would not think it is all that difficult for whoever is the inspector to knock at the door and say: "I believe that you have one person working here", or whatever it is and then, of course, finding out whether that is the case or that is not the case. I do not believe that that can be impossible and I go further, this is important for Gibraltar and as time goes by it is going to be all that more important. I do not believe it is only important for the worker only it is also important for the employer in Gibraltar in that the employer in Gibraltar obviously has got to abide by local standards which we all want to adhere to, it is in the interest of everybody not just for the worker or the employer and of the community as a whole that our standard of living is kept up to a certain degree, and is not brought down to the level of our neighbourhood through cheap labour. This is vital, it is so important and this is why I am asking the Government to go back and reconsider that they have been doing this since 1981 and that now I think they have come with something which is at half cock because obviously they have not given the matter the consideration it deserves and I would suggest without any further ado, they withdraw this bit of legislation, go back, have a good rethink, forget about conflicts of interests because if we start thinking on those lines everything is going to be wrong. This is why this piece of legislation is that way because it was wrongly couched right from the beginning and the moment you start putting all sorts of ulterior motives behind things you finish up not doing the right thing. I would suggest they take it back, have a good look at it again, you have heard the views of the Opposition, I think I can speak for Mr Joe Bossano, I believe that he would like to see this re-enforced. I believe the Government itself would like to see this re-enforced because it is in the interest of everybody. I do not think there is such a

hurry, there might be a few more directors who are prepared to take up spades and picks and shovels. I suggest therefore there is no immediate hurry, take it back and then come back again.

HON MAJOR F J DELLIPANI:

There is, I think, a bit of confusion with regard to work permits. The system we have now on work permits is that the work permit is given, as explained by Mr Bossano, to the employer. No employer is supposed to employ any alien unless he is an EEC member without a contract. The problem arises almost daily in the fact that when the employer makes out a contract he immediately thinks that he is covered. He makes up a contract for somebody and the employer is under the wrong impression that the contract has been approved, legitimised, the chap can start work immediately. That is not the system. The system is that if an employer needs an employee he is supposed to advise the Labour Department that he wants a particular foreign national who is not an EEC member to work for him and he does this by announcing a vacancy. If there are no Gibraltarians or permanent residents in Gibraltar or unemployed aliens who have worked in Gibraltar and who are not in employment, if there is no one in that category and that vacancy cannot be filled and there are numbers enough within the quota which has not been taken up by other employers, every industry has its quota of alien permits, then the chap is sent back to the employer, the employer fills up the contract and the contract is submitted to the Labour Department. The Labour Department then looks at the contract and, first of all, looks at the conditions of work, the wages that he is going to be paid, where he is going to stay, his permit of residence, they need to know whether the Medical and Health Department have allowed this to happen, whether he has got good accommodation, etc, etc. If we introduce the system that you are suggesting where the employee has the permit, and sometimes the union side puts that argument, there are certain pitfalls in that, first of all, if I am employed with you and I dismiss myself I might be within that quota of that particular industry but not of this other industry and I go there and there is no quota for that particular industry, this is the problem. The other thing is that we always require where there is a movement of employment between an employee of one employer and an employee of another employer for another contract to be done and this gives us the opportunity to check where his permanent residence is, to check whether he is still living in the same place, whether the place is still up to the normal health standards and once an employee has in his possession a work permit it will be very hard to trace because there would be no need for contracts or anything like that. I think it would be more difficult to control. The law as it stands now is that if you are not an EEC member or a resident of Gibraltar by way of employment because you have been employed here for some time, you cannot employ him without our permission so that is illegal already. Even if you sign the most marvellous contract giving the chap \$1,000 a week and only two hours of work a week, that contract is not valid until it has been

approved by the Department of Labour and comes within the quota that we have allowed in the Manpower Planning Committee. And let me say one thing on the Manpower Planning Committee of which I am the Chairman and in which the Hon Member, Mr Bossano, also serves. The idea of the Manpower Planning Committee is to try and control the labour coming into Gibraltar so that we encourage the existing labour that we have to work in different areas which have been untouchable before by Gibraltarians and since I have been Chairman of that we have cut down the number of permits, probably the biggest record that we have ever had, but I do not always agree with what the Hon Member has to say and with what the representatives of the Chamber of Commerce have to say because at one time I overruled both of them because they both said: "You do not need any more labour", and I said: "Yes, we need more labour for the Power Station", and that was the only time I have ever gone against the decision of the Manpower Planning Committee. I think I was right in that and I was probably right because none of them resigned and they normally would have all resigned but they knew me to be a hawk on the question of the control of alien workers and I think that is why none of them resigned, otherwise they would have resigned. The other point I would like to make is that the Hon Member Mr Scott, brought the question of conflict of interests in my case. To me there is no conflict of interest whether he received a cheque signed by me from Dell Construction. I said I sold the shares of Dell Construction in 1976. That company was bought in 1979, part of the contract of my selling Dell Construction was that I had to stay for three years with the English chap who bought the company in 1976. In August 1979, I went on holiday to Portugal and I came back and I found out that I only had one more month to go to complete my three-year contract. I came back and found that the company had been sold to a local business concern. I immediately approached the local business concern and said: "You have done something daft, this company is in ruins. It owes £19,000, if I had been here I would have strongly advised you not to buy it", because there was a £19,000 loss. The chap then employed a manager who used to be a Clerk of Works from the Public Works Department and he asked me whether I could stay on as the signatory of the company because he did not know this Englishman and I said I would because it had my name and I wanted to take away all these debts that we had. I immediately went to my Chief Minister and I said: "You know I have sold my company. My contract was due in September 1979, I have been asked to stay on as signatory and I have been offered £500 a month, but I do not like the idea of getting paid for anything I do because I think it would inhibit me in the way I would work because having been used to being my own employer I did not like to work for anybody else". And the Chief Minister advised me that there was nothing wrong in getting paid £500 a month for being a signatory but I said: "Thank you, Sir, for that advice, I still will refuse to get paid". That is why I say that there is no interest for me in Dell Construction because I have no remuneration from Dell Construction and I have never had any remuneration from Dell Construction.

HON P J ISOLA:

Is the Hon Member saying that he signs cheques for nothing, is that it? So his only connection with Dell Construction is that as a favour to the present owner he does all his cheque signing?

HON MAJOR F J DELLIPIANI:

That is right and I was offered £500 for that and I told the Chief Minister and the Chief Minister said there was nothing wrong in doing that and I said: "But I won't do it because I think that I might be inhibited in what I have to do". I do not like the idea of anybody being on top of me and this is why I said I had nothing to gain because I have nothing to gain, I am quite honest about it.

HON P J ISOLA:

You must love the new owner if you sign the cheques.

HON MAJOR F J DELLIPIANI:

No, I love my company because I have men working there who have been working with me since I started the company in 1973. That is my interest and that has always been my interest, the name of what was my company and the men who are still working there who I employed in 1973. Another dilemma that we had in the Labour Department with regard to the directors of the famous building in Waterport and the marble facing in Convent Place is that because I am a hawk I was tempted to say: "Well, let us get some money out of them. Let us try and make them pay social insurance. Let us try and do something about the income tax", until people who are quieter toned than I am said: "If we do that all we are doing is legitimising their stay in Gibraltar. If we accept the chap paying social insurance, after thirteen weeks he can stay in Gibraltar forever". This is what stopped us from trying to react in my hawkish way because I said: "At least let us get something out of them, social insurance, income tax, whatever". I was advised that if we did that we would legitimise their position in Gibraltar and it would make it more difficult to get rid of them. So we had that dilemma that if we did it officially by making them pay social insurance, etc, etc, we would legitimise their position. I still think that this is better than nothing. Whether we can improve it further on, yes, but at least this will alleviate the situation somewhat. There are other loopholes which I mentioned. I have mentioned the question of trade, that is another loophole. There is another loophole which the Hon and Gallant Major has not realised and I know and this is why I am talking about trade licensing all the time because I do not believe there should be a schedule saying what you need to trade in because, for example, an electronic engineer, if I repair television sets, I could be an alien from the Philipines, come to Gibraltar, register myself as a trading company in repairing television sets and

then there would be nothing to stop me, I do not need an employment contract if I am a registered company and there is one Moroccan who has done that already, he has opened up his own business to repair television sets. That is another loophole. We find another chap coming and saying that he is this kind of expert and he will open up, if it is not in the schedule, he will open up another trading business on a one person basis and he won't pay any social insurance, he won't pay anything, he won't pay any tax. Thank you, I am very grateful to the Hon Major.

HON MAJOR R J PELIZA:

Mr Speaker, if you give a man plenty of rope he will hang himself and I was trying to see if he was going to hang himself, I don't know how he has fared in that respect. Let me first of all say I am grateful to the Minister for giving us so much information, information which quite honestly at times I just could not follow and I must say that I still believe, after what I have heard, that it should be possible to have some control if it takes some time between the application coming in and the approval of the application, well, first of all I hope that the Minister can do something in the system to make it speed up because nothing is worse than the kind of bureaucracy that keeps people waiting for days and days before anything happens and usually if the system is smooth and quick it is also less costly because it means that fewer people are required to get it done and we all know what bureaucracy is, it tends to grow by itself like a cancer and anything that is done to keep it down to its smallest size the better. I cannot say how the thing is done administratively but the principle I still believe is possible, which is if you employ a particular person for a particular kind of work the tear-off that he takes with him will specify there the kind of work that he is entitled to do and that man will not have that in his possession the moment he is dismissed. I cannot see how that cannot operate and I cannot see that there should be any additional administrative burden on the department if that was done because it is almost automatic. Once the individual is employed, not when the application is made, once the individual has been employed, anyway, I won't argue the point, Mr Speaker.

HON MAJOR F J DELLIPIANI:

May I clear one point, Major Peliza? What you are losing sight of is the quota system that we have to control employment. How can you control employment if the chap holds the permit himself? You cannot, it is impossible.

MR SPEAKER:

I am afraid that we must not go on like this.

HON MAJOR R J PELIZA:

Mr Speaker, I do not understand why it cannot be done because that individual will only have that particular permit in his hand for as long as he is employed. The moment he ceases to be employed he has not got it, he cannot show it to anybody. As I say, I do not know enough about these things but I believe that a method could be devised which would to some extent make it possible to ensure that the individual cannot work without a permit and also put the onus on the individual and also on the employer directly or indirectly. He mentioned the marble operation which he was trying very hard to try and stop but again I would like to hear from the Attorney-General whether it would not have been possible to try and get an injunction to stop them working. Would there be anything there to prevent the Government from doing that?

MR SPEAKER:

With respect, I am going to stop you. That has nothing to do with the legislation. Whether anything could have been done and was not done is not the subject matter before the House. What we are talking about is the Control of Employment (Amendment) Ordinance.

HON MAJOR R J PELIZA:

Mr Speaker, we are talking about the control of employment but we are not going to have any loopholes for that unfortunately and if that could not have been done then, this is why I am trying to seek advice from the Attorney-General, if it could not be done then it could be done in the future but if it could have been done then I hope it will be done in the future but I am not satisfied with that way of going about it. I think we should have included it in the law, I believe that the matters that have been said in this House now show how important it is that something which will cover every possible loophole and I believe that we are really wasting, totally wasting our time by just putting this through the House now without all the other protection that I think the situation needs and I would advise the Minister who, I think my friend is absolutely right, he should have been the first one to introduce this, he is the person responsible, he should have introduced it, he would have been able to have the last word. I would not have had to sit down and I will allow him to speak again for his own sake, I think it is only fair that he should have done this, I think it has been most unfair that he has not brought the Bill himself to the House and all I say is that if he has any influence on the Government I would suggest that gets the Chief Minister to withdraw the Bill and then start all over again.

HON J B PEREZ:

Mr Speaker, I did not intend originally to speak on the Second Reading of this particular Bill but I think there are a number of points which have been made by the previous speaker which I think I ought to comment on. Major Peliza has told the House that in his view the Government has wrongly focussed the whole situation and that we are in fact introducing this particular piece of legislation for entirely wrong motives. With the greatest of respect to Major Peliza, I think if anybody has wrongly focussed the situation it is in fact himself and his party, the DPBG, because from what I have heard from Members opposite, apart from the intervention of the Hon Mr Bossano, what the DPBG is saying in this debate is that the Government is introducing this particular amendment to the Control of Employment Ordinance as a way of passing judgement on the Hon the Leader of the Opposition or in a way, that the Government is censuring the Hon the Leader of the Opposition and I think, Mr Speaker, that is totally wrong and I would describe that as absolute rubbish. I can understand the worries of the Hon Leader of the Opposition and I, personally, do not put any blame on his Chambers for having given that particular advice because, for example, a client may come to him, to his Chambers, and say: "I want a particular individual appointed as a director of this company, you are the registered office, you are the secretary for this company", and he as secretary would have to appoint a particular individual as their director so I do not ascribe any blame to him on that particular aspect and I do not think any Member of the Government who has spoken on this particular debate has sought to censure the Leader of the Opposition for his connection with this particular company which was made public that they had appointed a certain Spaniard as a director of the company. If anybody has wrongly focussed this particular amendment I think it must be the DPBG, Mr Speaker, and nobody else. The other point that I would like to make is that the Opposition are saying that this particular amendment does not go far enough. All I can say is that the Government has appreciated one particular loophole in the Control of Employment Ordinance and it is doing its utmost in this particular amendment to block that loophole. It is no good doing as it has been suggested by Major Peliza to in fact leave things as they stand, withdraw this particular Bill before the House, have another rethink and come again to the House. I do not see any point in doing that. We know there is a loophole, we are quite confident that we can block the loophole and therefore the amendment is brought before the House and I think this is the right and proper way to proceed. If we find there are other loopholes which are being considered even today

HON MAJOR R J PELIZA:

There are, the Minister has said that there are many loopholes.

MR SPEAKER:

There will be no more interruptions in this debate.

HON J B PEREZ:

Mr Speaker, it is not just a question of saying yes, there are one or two or three or four other loopholes unless you can come up with the right solution to plug the loopholes. The Government feels and the Government is confident that with this piece of legislation, this amendment to the Control of Employment Ordinance, we can in fact block the loophole which is apparent and clear in Gibraltar today and this is what we are in fact doing. The other point I have to comment on is that in fact I would have expected the DPBG to have welcomed this particular piece of legislation rather than criticise us for bringing it to the House and I must say that, again I would reiterate, they are the ones who are attributing the wrong motives to the Government because they all think that by introducing this the Government is launching a personal attack on Mr Isola which is clearly not the case. The last point I wish to make is that if the Government had proposed further amendments to the Ordinance I think then the Opposition in that particular case would then have got up in the usual manner and accused us of being totally undemocratic as they have done in the other piece of legislation which was debated this morning and they would have said that we have allowed no time for public debate. It is quite clear, Mr Speaker, in my opinion, that nothing that this Government does or tries to do will ever meet with the approval of the DPBG. It is in fact unfortunate that this is the case today and I would urge the Gallant Member opposite to try and convince his colleagues that this really is not a motion of censure on his Leader, don't ascribe any wrong motives to this particular amendment and I sincerely hope that the DPBG will be able to vote in favour taking into account that it is an honest attempt by the Government to try and block a loophole which is there and we have to do something about it and we are doing so.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, at the outset I would like to make one point to the Hon and Learned Leader of the Opposition who is not here either, but I would like to make one point and that is that I do not subscribe to the view that there is any conflict of interest at all between a lawyer who offers professional advice to his client on the interpretation of statutes on the one hand and also has public duties on the other, I think it is quite different functions, I see no conflict of interests whatsoever and I had no intention in moving this Bill to suggest in any way at all that there would be such a conflict because there is clearly not. Nor do I take the view, just to make it quite clear where I stand on this, nor do I take the view that if a statute does not perfectly give effect to the will of Parliament or the will of the Legislature, it is sufficient for the law enforcement officers to say: "Well, even though

it does not say this, this is what it means and we are going to enforce it this way". Of course that is not good enough because it does not give effect to what Parliament really intended and a Court so rules, well, then good luck to them. But having said that I would like to reiterate my own personal view and I realise that not all lawyers may agree with me but it is my view that at the moment if a person is employed as a worker in Gibraltar and there is no work permit for him the fact that he is also designated as director, if he is not a real director, I think is a contravention of the Ordinance and I propose to test it. That may be a matter of argument but I am going to test it, I will test it in any case without discrimination. The Government has already made it clear that in any event it does not want any contention about this legislation and I do not think this particular piece of legislation insofar as it goes, Mr Speaker, is inadequate because it only has one purpose at this stage. This particular Bill only has one purpose and that is to give effect to what I think everybody would agree was the will of the House even if at the end of the day in a prosecution it might not be upheld by a Court to be made out in the legislation, I think it was quite clearly the will of the House that people who everybody would understand as being workers should have to have work permits issued for them and that is the sole object of this Bill, that is as far as it goes. It is not introducing any new matter of policy, it is perfecting or putting beyond argument what I take to have been the original intention of this House. I realise that there are other matters which have to be addressed and I think they have been referred to in the House in the debate. One of them is, of course, the question of an employer who is outside the jurisdiction, and we do have in Gibraltar the concept of territorial limitations as you do anywhere else in a British country. We do have that problem of an employer who is outside the jurisdiction who may send a worker into Gibraltar to perform work. I think that that is really not so much a flaw in the present Ordinance but something that needs to be covered and it needs a widening of the scheme of the Ordinance for the future. It is not ready yet and it is not that long ago, as far as I am aware, that the issue came up, it is not ready yet but it is being worked upon. There are complications, one possibility is, I think, and we have actually turned it over in our minds, one possibility might be to say that if a person in Gibraltar receives the benefit of the services of a worker from outside Gibraltar who works for some other person, then that person in Gibraltar who is the householder or whoever it may be, receiving the benefit of those services will be deemed for the purposes of the Ordinance to be an employer but I do not think it is quite as simple as that and we are not ready yet to make proposals on this because I think it is a little bit more subtle than that. The other point I would like to make which I think one of the Members on this side may already have made, is that we could say: "If you are a worker and a work permit does not exist for you, then you will be liable for an offence". Without saying categorically that the ILO Convention prohibits that, I think I am on fairly strong ground, I feel fairly sure in saying that the philosophy of ILO Conventions is that you do not

penalise the worker. I think that is right, I feel quite confident in saying that. ILO legislation typically and I think Gibraltar is bound by ILO legislation, does not tend to penalise the worker, it penalises the people who put him in the position of being a worker so we have to think a way around that as well. There may also be implications under the Trade Licensing legislation but that is a matter that we are going to have to look at in due course. Mr Speaker, I do not think this Bill is, so far as it goes, I do not think it is inadequate, I think it is a necessary measure, everybody knows the area there which has got to be curbed or put beyond argument and I see no reason at all why it should not proceed now and be enacted as soon as possible and I move accordingly.

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

HON ATTORNEY-GENERAL:

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

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

- (1) The Income Tax (Amendment) Bill, 1983;
- (2) The Stamp Duties (Amendment) Bill, 1983;
- (3) The Estate Duties (Amendment) Bill, 1983;
- (4) The Elections (Amendment) Bill, 1983;
- (5) The Specified Offices (Salaries and Allowances) (Amendment) Bill, 1983;
- (6) The Trade Licensing (Amendment) (No 2) Bill, 1983;
- (7) The Public Health (Amendment) (No 2) Bill, 1983;
- (8) The Non-Contributory Social Insurance Benefit and Unemployment (Amendment) Bill, 1983;
- (9) The Supplementary Appropriation (1983/84) Bill, 1983, and
- (10) The Traffic (Amendment) (No 2) Bill, 1983.

MR SPEAKER:

With respect to the Hon and Learned Leader of the Opposition, we are moving into Committee to consider those Bills. We cannot do the Traffic (Amendment) (No 2) Bill until tomorrow but there is no reason why it should not be announced now.

HON P J ISOLA:

We do not agree to that therefore we cannot resolve to deal with that.

MR SPEAKER:

We are resolving to move into Committee for the purpose of considering a number of Bills. We are not entitled to consider the Traffic (Amendment) (No 2) Bill, 1983, until tomorrow and we will not do that Bill today.

HON P J ISOLA:

Mr Speaker, we cannot resolve now to consider a Bill that we have not agreed to. Of course, I defer to your ruling.

MR SPEAKER:

The Second Reading has been taken and the House has failed to agree that the Committee Stage should be taken today. The relevant Standing Order is very clear, I will read it to you, Standing Order No 32(2): "The only amendment to the question permissible shall be one postponing the Second Reading to some subsequent date. If the motion be carried the Clerk shall read the title of the Bill, and thereupon a day shall be fixed for the consideration of the Bill in Committee, which may be the same if all Members agree, or a subsequent day if otherwise". What we cannot do now because we have not agreed is to consider the Committee Stage of that particular Bill today but we can most certainly resolve to go into Committee.

HON P J ISOLA:

But does not the resolution say in the case of the Traffic Bill tomorrow, not earlier than tomorrow? That is what the Standing Orders say.

MR SPEAKER:

No, with respect, because I have no doubt whatsoever that it will not just be this Bill that will not be taken today, there will be others that will not be taken today because we have not got the time to do so. We are just resolving to go into Committee to consider Bills and should we be able to deal, which I very much doubt, with all Bills and come to the Traffic Bill then we would have to recess the House until the

morning because we cannot consider that Bill but there is no reason why we should not resolve to go into Committee for the purposes of the Third Reading of the Bills before the House, that is all that is happening.

THE INCOME TAX (AMENDMENT) BILL, 1983

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

Clause 3.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I have given notice for an amendment to Clause 3 to insert a new paragraph (ua)(i) after the words "the trust is created by" the words "or on behalf of". Hon Members may recall that during the Second Reading debate on this Bill it was agreed that the words "or on behalf of" should be inserted and I think this amendment was agreed by the Members opposite.

Mr Speaker put the question which was resolved in the affirmative and Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that in new subsection (6) the word "compiled" be deleted and the word "computed" substituted.

Mr Speaker put the question which was resolved in the affirmative and Clause 4, as amended, was agreed to and stood part of the Bill.

Clause 5

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I gave notice yesterday to omit the proposed new subsection (1A) and substitute the following new subsection: "(1A) Every rule made under subsection (1) for the purposes of section 27A shall be laid before the House of Assembly". Mr Speaker, the reason for the tabling of this amendment is that there is a problem about the early introduction of the rules to be made under this section of the Bill. We are very anxious to bring in qualifying companies as early as practicable but because of timing if the Bill is enacted at this meeting we would have to wait for a subsequent meeting which would not be until probably October at the earliest, in which to table the rules and to have a positive resolution and we would be losing three months during which competing Finance

Centres who have also recently passed legislation for qualifying companies could be mopping up companies which could otherwise come to Gibraltar and so what is proposed is that instead of a positive resolution it would be the negative resolution procedure which means that the rules would be laid before the House and it would be possible for a Member at two subsequent meetings of the House to raise a question on them for their annulment should they so wish. I am conscious that in moving this amendment the House should have some indications of what sort of rules we have in mind to make and which will be made and then tabled for the next meeting of the House. They are, first of all, that there should be a licence fee of £250, an annual fee of £250 for the issue of a certificate. Secondly, that a company which wishes to be licensed as a qualifying company would make a deposit of £1,000 on account of future tax liability. Thirdly, the rules would set out the criteria for issue of a licence and these are the company is not resident owned, does not carry on business within Gibraltar itself, a certified true copy of all share registered outside Gibraltar will be kept in Gibraltar when the company is not a public company and shares are quoted in a manner approved by the Financial and Development Secretary, no Gibraltarian or resident of Gibraltar could be interested in any of the shares other than as a shareholder in a public company whose shares are quoted in a manner approved by the Financial and Development Secretary. Transfer of shares, the same restrictions would apply to transactions as to the shares of an exempt company and bearer shares would be allowed in certain circumstances, the bearer certificates and coupons remain deposited with a bank wherever for the persons approved by the Financial and Development Secretary as shareholders and no other person has an interest in the shares except as might be approved in writing by the Financial and Development Secretary, the depository bank would not part with the bearer certificate without prior permission in writing which might be either general or special in a particular case and the bank would not do any act without the permission of the Financial and Development Secretary whereby it recognises or gives effect to the substitution of one person for another as the person from whom it receives instructions in relation to certificate title or coupons. There will be a provision as in the Companies (Taxation and Concessions) Ordinance for auditors and any breach of any requirement would render a qualifying company liable to have its certificate cancelled and to be charged tax at the standard rate. In the event of it proving the breach is excusable the Financial and Development Secretary would be able to reinstate the company but there would be a penalty of £25 as under the Companies (Taxation and Concessions) Ordinance for reinstatement. These are basically what would be covered in the rules and they have been discussed in extenso with the Finance Centre Group. Mr Speaker, I beg to move the amendment.

Mr Speaker put the question which was resolved in the affirmative and Clause 5, as amended, was agreed to and stood part of the Bill.

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

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

THE STAMP DUTIES (AMENDMENT) BILL, 1983

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

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

THE ESTATE DUTIES (AMENDMENT) BILL, 1983

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

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

THE ELECTIONS (AMENDMENT) BILL, 1983

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

Clause 2

HON P J ISOLA:

Mr Speaker, as you know I queried the advisability of repealing section 2(ii) of the principal Ordinance by virtue of the fact that I queried the position that could arise as a result of Gibraltarians genuinely having to seek accommodation in Spain because of lack of accommodation in Gibraltar and coming to work to Gibraltar and it seemed to me that we ought to reflect on the possibility of keeping that in because of that sort of case. I must say, Mr Speaker, that I have heard the argument especially from my Hon Friend, Mr Bossano, on the question of the dangers of in fact not repealing that section because of the number of people who could be caught by it and I have looked at the matter and possibly it would be impossible, I suppose, to just allow Gibraltarians resident in the Campo Area to vote and not allow at the same time other British Subjects because the right to vote derives from being a British Subject and not from being a Gibraltarian. In those circumstances, Mr Speaker, I thought I would get up and say that certainly I, I know my colleagues do, but certainly I agree now to the repeal of that section 2(ii). I think that in the circumstances I am convinced. We agree with that clause as well.

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

Clauses 3 to 6 were agreed to and stood part of the Bill.

HON P J ISOLA:

Mr Speaker, before the Long Title, the Hon and Learned Chief Minister did say he was going to let us have the regulations well in advance of being put into force. All I am asking on this side of the House is that we should see them six weeks at least before an election. All I am asking is that, we do not want to find that we get the regulations and there is a dissolution of the House a week later.

HON CHIEF MINISTER:

No, of course not.

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) BILL, 1983

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

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

THE TRADE LICENSING (AMENDMENT) (NO 2) BILL, 1983

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

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

THE PUBLIC HEALTH (AMENDMENT) (NO 2) BILL, 1983

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

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

THE NON-CONTRIBUTORY SOCIAL INSURANCE BENEFIT AND UNEMPLOYMENT INSURANCE (AMENDMENT) BILL, 1983

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

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

THE SUPPLEMENTARY APPROPRIATION (1983/84) BILL, 1983

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

The Schedule

Supplementary Estimates Consolidated Fund No. 1 of 1983/84

Item 1. Head 4 - Electricity Undertaking

HON G T RESTANO:

Mr Chairman, can I have clarification of this £686,442, how much of that figure was included in the figure that I was given in the earlier part of the meeting in answer to Question No. 265 where the cost of the Power Station had been up to then £765,500? How much of this £686,442 is included in the £765,500?

HON DR R G VALARINO:

The figure is about £400,000.

HON G T RESTANO:

£400,000 is what is included from here in the £765,000 so by the end of September the figure ought to be the figure I was given at the earlier part of the meeting plus £286,000, is that correct? Could we also have a breakdown of these figures, Mr Chairman?

HON DR R G VALARINO:

I will give you the total cost, if I may. The operational costs - £570,704; service of engines - £17,860; mobilisation - £62,197; insurance - £1,000; and local labour costs - £34,671, giving a total of £686,442.

HON G T RESTANO:

What is the first one?

HON DR R G VALARINO:

The first one was the operational costs.

HON G T RESTANO:

What was the amount

HON DR R G VALARINO:

£570,704.

HON G T RESTANO:

Does the Government have any control over these figures or are they merely figures that are presented by Hawker Siddeley? Does Government control these in any way, for example, the operational costs of over £½m?

HON DR R G VALARINO:

Yes, Mr Chairman, we control them by knowing how many people are coming to run the Station and how much it is going to cost us. Let me say at this point that the agreement with Hawker Siddeley has now been personalised so that the department is able to replace people once selected and employed by Government so it will be a gradual process and it will be costing us less every time.

HON G T RESTANO:

If it is personalised to this degree, how many men are working the Station?

HON DR R G VALARINO:

Eighteen at the present moment. I am talking about the future, about once that we know we have got the posts selected and have been filled.

On a vote being taken on Item 1, Head 4 - Electricity Undertaking the following Hon Members voted in favour:

The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon R J Wallace

The following Hon Members voted against:

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

The following Hon Member were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon Major F J Dellipiani
The Hon A J Haynes
The Hon D Hull
The Hon J B Perez

Item 1, Head 4 - Electricity Undertaking was accordingly passed.

Item 2, Head 9 - Income Tax

HON W T SCOTT:

Mr Chairman, I notice here there is a sum of £26,673 to meet increase in rent for the Income Tax Office. Can I ask the Government, isn't this subject to the moratorium?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, the Government had to negotiate an extension. The lease expired on the 31st July, 1982, and we negotiated the new rent over a long period, over a year in fact, and this is why the cost is so high because in this year we have to meet half the cost of last year. This was negotiated by the Surveyor and Planning Secretary and as far as I am aware it was not caught by the moratorium.

HON CHIEF MINISTER:

I don't know about the period but I know the spirit behind it was that we are leaving the place and we have to settle in order to go away and go somewhere else where offices are being prepared and this is the tail end of the lease that came into operation.

HON P J ISOLA:

Lots of leases finished on the 31st July all over Gibraltar and they do not get any more rent, the law prohibits this.

HON CHIEF MINISTER:

The interest was because we have not paid pending a negotiation of the new rent which they wanted, a very high rent, and until we were able to make arrangements to go elsewhere we were not in a position and we did not pay rent in order to be able to bring some pressure to bear. In the final settlement, if I remember rightly, I had nothing to do with this, but I remember from Council of Ministers, in order to bring up a final settlement an omnibus agreement was reached whereby the old rent plus interest on it was paid, a reduced rent to what was wanted obtained for the rest of the period in order to finish and in fact we will be moving away from those premises because they are too expensive.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the proposed amount of interest paid in the amount sought was £2,680.

HON P J ISOLA:

I am grateful but the point I think we are making on this side of the House is if there is a moratorium was there a legal liability on the Government to pay the extra rent? Why is the Government as a tenant in a different position to other tenants who do not have to pay increase in rent? Why should the Government pay?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

My understanding, Mr Chairman, was that this was negotiated by the SPS. Our understanding was that there was a legal requirement to pay this and if we had not paid there would have been a Court action to evict the Government. We were under a threat of legal proceedings to move out of the building.

HON P J ISOLA:

But according to the moratorium legislation any notice or any termination everything just stayed on, how could that have been?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am not sure, Mr Chairman, what I will do is find out from the Surveyor and Planning Secretary what the position was and inform the Hon Member with a copy to the rest of the House but certainly we were under threat of legal eviction.

HON CHIEF MINISTER:

At the time where we had nowhere else to go.

Item 2, Head 9 - Income Tax was agreed to.

Item 3, Head 14 - Medical and Health Services

HON G T RESTANO:

Can we have an explanation as to why these arrears cropped up and have not been settled earlier?

HON J B PEREZ:

Basically, Mr Chairman, this was a staggered settlement, it was not agreed straight away, it was over a certain period of time. Until the final result was known we did not decide to settle the particular year, we preferred to wait until the end. when we knew the outcome then we settled.

HON W T SCOTT:

Mr Chairman, shouldn't this be a reallocation, a virement from the appropriate Head of the Pay Settlement rather than supplementary estimates?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Chairman, because the Head for the Pay Settlement is only for the 1983 Pay Settlement. When we are meeting arrears from a previous year we have to vote for provision.

Item 3, Head 14 - Medical and Health Services was agreed to.

Item 4, Head 20 - Public Works Annually Recurrent was agreed to.

Item 5, Head 26 - Treasury

HON MAJOR R J PELIZA:

Mr Chairman, I am surprised to see here a vote for Dockyard consultancy when in reply to my question the Chief Minister did not mention this. In Question 301 of 1983, earlier in the meeting, Mr Chairman, I asked the Government: "Can Government specify the cost of the PEIDA Reports, and of A R Belch Associates, and Coopers and Lybrand Associates, and of any other Reports not known to this House in connection with the closure of the Dockyard?" The answer by the Chief Minister said: "No, Sir. The cost of the Reports is met by the Overseas Development Administration and it is not their practice to inform overseas Governments of the costs of Reports carried out on their behalf". I was asking if there were any other Reports of which I certainly did not know anything about and he did not mention this. I just wonder whether it was an oversight or what was the reason for it and also could he give us an explanation of what this report is about, who had undertaken it, whether it was strictly a Government consultancy and nothing to do with the ODA and has it been made available to any Member of this House, it has not reached me and is it the intention of the Chief Minister to make this available readily so that if we do have a debate we know what the independent adviser to the Government has said?

HON CHIEF MINISTER:

Well, in the first place the answer to the question was bona fide given as referring to the consultancies that have been made public and which were the Appledore consultancy, the PEIDA Report and the independent consultants of which there has been a presentation to Hon Members here and it was to that, obviously, if I said I did not know, I did not know, this was referring to that. This is a new item and I ought to explain that having regard to the fact that we had these Reports, the first PEIDA Report, the second PEIDA Report, the Appledore

Report, the Consultants Report, all bona fide but appointed by the ODA. The Government felt compelled to seek independent advise on all the Reports that have been presented. This is an on-going thing, this is an estimate and I hope it will not be exceeded, this is on-going now and we have had the Report, we have had a Report, we have had consultancies when we were in London, we were in touch with the people concerned and of course we have not made any assessment yet on those Reports because we are studying the matter but of course as soon as we come to a view and the matter is put down for discussion, Members will have the one Report that has been produced so far and any other papers that may be produced as a result of this consultancy. The Government has thought fit to take independent advice in a matter of this importance in order to be able to know which way it was going and which way it would tell the House we ought to go or we ought not to go.

HON MAJOR R J PELIZA:

I support the idea, it is just that it struck me as very strange that it was not mentioned in the reply to my question. I welcome it and I am very glad that the Chief Minister is going to make this available as soon as possible but I do not know when it is. When I first heard that we were going to have a debate on the Dockyard this coming Monday it looked to me as if that was not going to be so so I do hope the Chief Minister will make this available to this side of the House as soon as it is available because the more informed the House is the better, I think, we can contribute to an intelligent debate.

HON CHIEF MINISTER:

In the case of the previous report we did say that we would circulate it to Members as soon as the Government had taken a view and this will be the same now. We are on-going in our discussion and as soon as we take a view we will hold the view until we explain it, we will then make all the documents available and certainly available in good time before the debate takes place so that the Members of the Opposition are able to gauge the situation together with such advice that we have got.

Item 5, Head 26 - Treasury was agreed to.

Supplementary Estimates Consolidated Fund No. 1 of 1983/84 was agreed to.

Supplementary Estimates Improvement and Development Fund No. 1 of 1983/84

Head 110 - Electricity Service

HON G T RESTANO:

Can we have a fuller explanation of this amount, the £192,335?

HON DR R G VALARINO:

Mr Chairman, further items which were not provided for originally were the high costs of site reclamation to meet the contract commencement date and the increase in consultants fees. The increases as you can see are to be covered by supplementary provision amounting to £192,335.

HON G T RESTANO:

Why was there an increase in consultancy fees?

HON DR R G VALARINO:

The increase in consultancy fees due to PCR was due to an extended period. The original estimate covered an eighteen months period but the PCR presence was needed in Gibraltar for twenty-four months giving the excess of the six-months period over the eighteen months.

HON G T RESTANO:

What extra period are we talking about?

HON DR R G VALARINO:

Basically the last six months before the Gibraltar Government accepted the engines.

HON G T RESTANO:

But why was it necessary for them to remain for an extra six months? What is the reason for this, was it that the engines had not been running consecutively for the required period of time or was there any other reason?

HON DR R G VALARINO:

No, Sir, mainly because we wanted to make sure that once the certificates were signed and the operation continued, Hawker Siddeley which was manning the Station at the time so that PCR could keep an eye on the extended testing and that if anything went wrong we had somebody on the spot who would be responsible to the Government.

Head 110 - Electricity Service was agreed to.

Supplementary Estimates Improvement and Development Fund No. 1 of 1983/84 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.

FRIDAY THE 8TH JULY, 1983

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

The House resumed at 9.25 am.

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1983

HON P J ISOLA:

Mr Chairman, I would like to ask the Government whether they would consider taking this Bill at a subsequent meeting. This is one of the Bills that was sent to us, it was in the Agenda for First and Second Reading and Committee Stage and I do not think there has been any public pronouncement about it except in this House and I think in fairness to the trade of Main Street I think the Government ought to allow this to be known, people to know about it in case there are representations made by people in this line of trade who do not have the privilege of the airport terminal thing and I think an opportunity should be given because we believe, as we said in the Second Reading, we would prefer 5% for everything but we do believe that by giving these articles 5% duty only in the air terminal building it is possible that the general trade, a lot of shops who deal with this, could be affected and we feel that the Government should allow this Bill to follow its normal course of coming to Committee Stage and Third Reading in a subsequent meeting.

HON CHIEF MINISTER:

Mr Chairman, when we first introduced duty free goods at the airport a former Member of the Opposition, Mr Caruana, said we were bringing death to the whole of Main Street. Well, it has been proved that we did not, certainly up to now, and that has not been in effect. As it happens the construction of the place is still going on and there is no immediate hurry and therefore I have no difficulty in leaving it to a subsequent meeting.

MR SPEAKER:

We will then defer the Committee Stage and Third Reading of the Imports and Exports (Amendment) Bill, 1983, to a subsequent meeting. We have come to the stage now when the only other Bill to be considered is the Traffic (Amendment) (No 2) Bill, 1983, and therefore we will recess now until tomorrow morning at 9.15 when we will take the Committee Stage of that Bill and then we will go on to Private Members' Motions.

The House recessed at 4.50 pm.

MR SPEAKER:

I will remind the House that we are at the Committee Stage of Bills and that the next Bill is the Traffic Ordinance.

THE TRAFFIC (AMENDMENT) (NO 2) BILL, 1983

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

Clause 3

HON P J ISOLA:

Clause 3, Mr Chairman, I did not get quite clear under that Clause the Government will have a right to limit the number of licences as they agreed in the agreement. I think I heard the Minister say that the need for the legislation to be amended for a second assistant driver was not urgent, a remark I cannot understand because if the whole basis of the agreement is to give an improved taxi service, can the Minister state how by limiting the licences now and still having only one driver, one car, the service which at the moment is not coping with the increased traffic as a result of the opening of the frontier is going to cope, how does he propose that to happen?

HON M K FEATHERSTONE:

Sir, the agreement has envisaged first the use of radio taxis, secondly, a rationalisation of the present services and not written into the agreement but it is understood with the Taxi Association that they have made internal arrangements to see that taxi stands are manned and that a certain number of people who under normal circumstances might have been away from taxi stands servicing liners, will not do so but will be available at taxi stands at all times and they have suggested and Government has agreed that the question of the second driver is not of immediate urgency and therefore we feel that we can leave this for a later meeting.

HON P J ISOLA:

Mr Chairman, could I then ask on the question of taxis at taxi stands, what monitoring is being done to ensure that they are and that the agreement is being fulfilled? Is the Minister aware that in fact two or three taxi stands yesterday were entirely empty in the afternoon? Is any monitoring to be done?

HON M K FEATHERSTONE:

It will be monitored but of course it is not correct to create too much trouble, if a taxi stand is empty for a short period of time this can happen anywhere. I have been in taxi stands in Paris, in Germany, in London and at times you have to wait five or ten minutes for a taxi because the taxi stand is completely empty. The situation is that if you can get to a telephone, and most people can, you can ring up the taxi service and a taxi will come very quickly and the stands will be replenished as rapidly as they possibly can.

HON P J ISOLA:

Mr Chairman, so that in fact this question of a roster system under paragraph (d) of the agreement is just so much eyewash, it is going to be replaced by radio taxis so that part of the agreement has already gone for a burton.

HON M K FEATHERSTONE:

No, Sir. If you have a taxi stand and by coincidence four people turn up and there are four taxis then for two or three minutes it is going to be empty. You cannot have twenty taxis just for the possibility that at any given moment twenty people may turn up.

HON P J ISOLA:

Of course, Mr Chairman, but you cannot have it on the other hand regularly empty which is what is going to happen as a result of this agreement.

HON M K FEATHERSTONE:

I do not think so, Sir.

MR SPEAKER:

Any further matters to be raised in this Clause?

HON P J ISOLA:

No, I would only like to observe that the agreement will continue to be void and illegal as a result of the Government not putting in legislation to give legal effect to the present illegal situation of second assistant drivers which are not permitted by law.

On a vote being taken on Clause 3 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 J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A J Haynes

Clause 3 stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Income Tax (Amendment) Bill, 1983; the Stamp Duties (Amendment) Bill, 1983; the Estate Duties (Amendment) Bill, 1983; the Elections (Amendment) Bill, 1983; the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1983; the Trade Licensing (Amendment) (No 2) Bill, 1983; the Public Health (Amendment) (No 2) Bill, 1983; the Non-Contributory Social Insurance Benefit and Unemployment (Amendment) Bill, 1983; the Supplementary Appropriation (1983/84) Bill, 1983, and the Traffic (Amendment) (No 2) Bill, 1983, have been considered in Committee and agreed to, in the case of the Income Tax (Amendment) Bill, 1983, 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 Income Tax (Amendment) Bill, 1983; the Stamp Duties (Amendment) Bill, 1983; the Estate Duties (Amendment) Bill, 1983; the Elections (Amendment) Bill, 1983; the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1983; the Trade Licensing (Amendment) (No 2) Bill, 1983; the Public Health (Amendment) (No 2) Bill, 1983; the Non-Contributory Social Insurance Benefit and Unemployment (Amendment) Bill, 1983, and the Supplementary Appropriation (1983/84) Bill, 1983, the question was resolved in the affirmative.

On a vote being taken on the Traffic (Amendment) (No 2) Bill, 1983, the following Hon 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 Zammit
The Hon D Hull
The Hon R J Wallace

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon J Bossano

The Bills were read a third time and passed.

MINISTERIAL STATEMENTS

MR SPEAKER:

I should say that I have received two notices and they are both dated the 6th July, one from the Hon and Gallant Major Peliza who wishes to raise on the adjournment the enfranchisement of the people of Gibraltar in connection with the election of the European Parliament and a notice by the Chief Minister who wishes to make a statement and it reads: "I have the honour to give notice that at the current meeting of the House of Assembly I propose to make a statement on the Dockyard".

HON A J CANEPA:

Mr Speaker, what was the date of the notice of the Chief Minister?

MR SPEAKER:

Both were the 6th July. The Chief Minister's notice reads: "I have the honour to give notice that at the current meeting of the House of Assembly I propose to make a statement on the Dockyard". I think that the Chief Minister mentioned the fact in the House during the proceedings, as a matter of fact. I will now call on the Chief Minister to make his statement.

HON P J ISOLA:

Does this require suspension of Standing Orders?

HON CHIEF MINISTER:

We do not need that. A Minister can make a statement at any time.

MR SPEAKER:

No, a Ministerial statement can be made at any time, as a matter of fact, even without notice.

HON CHIEF MINISTER:

There was no necessity for having given notice for which the suspension of Standing Orders would have been required. I have given notice before and I have said so here. Anyhow, the statement will not be one that will bring the House down. We had originally planned to discuss the question of the Dockyard at this meeting to deal with the normal business of the House on 11 July. It subsequently became necessary to reverse this order but at that time I made the reservation that a further postponement of the Dockyard discussion might be necessary. I now confirm that this is in fact necessary. The importance and complexity of the matter require further study by officials and further and, hopefully, final talks with British Government Ministers. I will give as much time as possible to Hon Members as to when we will be ready to discuss the Dockyard issue in this House. I know that the House, and indeed the public at large, are anxious to learn the outcome of the discussions with the British Government but the matter is of the utmost importance and we are having meaningful discussions. It is my intention to bring the matter to the House at the very earliest opportunity once these discussions have been finalised. In addition to that statement, Mr Speaker, the earliest date that I can find to recess this House for that purpose without saying that we will necessarily be ready but there is a hope that we will be ready, will be the 25th of July.

HON P J ISOLA:

Mr Speaker, do I understand that the Chief Minister is not therefore going to make a statement on his visit to the United Kingdom and the proposals he made to the British Government in this meeting?

HON CHIEF MINISTER:

That is right, yes.

HON P J ISOLA:

Could I then ask, can I assume from the fact that the matter now seems to be going once more at a leisurely pace that the Dockyard will not now close on the 31st December, 1983, and that he has assurances in this respect?

HON CHIEF MINISTER:

No, I cannot say that but I certainly can say that if that were to be the case the redundancy notices must obviously go at the end of the year because there must, first of all, be a declaration of a state of redundancy one month before the six months given of notice of redundancies, that is, the people on payment employed in the Dockyard now are assured whatever happens - and this is purely mechanical - whatever happens the people in the Dockyard are assured seven months employment from the date of a declaration of a state of redundancy which has not yet been made pending the finality of the discussions which are on-going at the moment.

HON P J ISOLA:

So that then at least we can be assured that the Dockyard will not close on the 31st December, 1983?

HON CHIEF MINISTER:

No, I do not think the Hon Member has taken the point. The Dockyard could close, I am not saying it can close, could close and people be placed on notice until the end of the period of the redundancy beyond the 31st December.

HON P J ISOLA:

You mean paid instead of employment.

HON CHIEF MINISTER:

Well, if the Dockyard is closed, paid instead of employment, well, not in lieu of notice, notice in lieu of employment.

HON P J ISOLA:

Yes, but surely, Mr Speaker, the Chief Minister must know that if the commercialisation proposals were to be put into effect and be able to start on day one, January 1st, 1984, certain things would have to be done immediately and cannot he at least indicate to the House that he has reasonable optimism that the Dockyard will not now close on the 31st December, 1983?

HON CHIEF MINISTER:

I cannot do that, I wish I could. I cannot do that but that does not mean a negative or a positive reply, purely a no reply. If Members have seen today's Chronicle they will have seen that in the House of Lords the Minister for Defence was pressed in a similar question by Lord Merrivale and the statement he made was exactly what I am saying now that at the time when the question was made Mr Stewart, the Under Secretary was in Gibraltar and he said that he would not like to say anything that would prejudice the discussions that were on-going. The position is exactly the same here because the visit of Mr Stewart took forward certain discussions but did not reach finality and there may well be need for Ministers from Gibraltar to visit London before the 25th July.

HON P J ISOLA:

Cannot the Chief Minister state at least what is it that the Government is thinking to achieve at this present moment of time? Is it deferment? Is it a change of mind in the statement by the Prime Minister on the 28th June in the House or what?

HON CHIEF MINISTER:

I am afraid that whatever questioning may cleverly be put forward by the Hon Leader of the Opposition will not move me from the statement that I cannot say any more.

MR SPEAKER:

Then we will go on to Private Members' Motions.

HON P J ISOLA:

Mr Speaker, before we do that as this House is going to be adjourned if I said I want to raise it in the adjournment I would have to wait so then I won't say anything because it will be a waste of time. Before we go on to motions, Mr Speaker, could I ask something about yesterday's Matrimonial Causes debate. I heard on television last night, when talking of the debate, it stated that the Chief Minister had instructed the Financial Secretary and the Hon and Learned

Attorney-General to abstain. I do not recall him having said that, I would not imagine he would have said that but it sounded terrible that the Chief Minister was depriving the Attorney-General and the Financial Secretary of their right to vote. So perhaps could I ask, I do not think he said it.

MR SPEAKER:

I also heard the report from the Gibraltar Broadcasting Corporation. We are not responsible for the accuracy of their reporting. I think Hansard will show that nothing of the sort happened in the House but most certainly I did hear the Chief Minister say that he understood that both the Attorney-General and the Financial and Development Secretary would abstain.

HON CHIEF MINISTER:

But it simply arose for one reason and that is because there were allegations from the other side that the vote had only been carried by a majority of one including officials and then in that context I said official Members will not be voting on this motion, one way or another. I certainly did not say instructed, it is a matter for their conscience, but having regard to the fact that there appeared to be an allegation that there was very little support and that only by a majority of one, that was in respect of the referendum, I think, I said in this case: "It is our business mainly and they will not be voting", that is what I said.

HON P J ISOLA:

This morning in the Chronicle it was also reported as being "on the direction of the Chief Minister". I think in the interest of the House this is a rather bad thing to have said because it is unconstitutional. I do not know whether the Chair could invite both the Chronicle and GBC to put a corrective statement in. I thought it had not been said but in television it sounded and in the Chronicle today it does not look too good "on the direction of" and perhaps the Chair could ask the Clerk to communicate the feelings of the House and ask for a corrective statement.

MR SPEAKER:

I think in fairness to the media I think from what the Hon and Learned Chief Minister has said this morning I think there are grounds on which perhaps there may have been a misunderstanding. If as a result of what has been said this morning there is need for a correction I feel sure that the media will take note of what has happened in the House this morning but until such time as I listen to the Hansard I will not in any manner or form be entitled to ask the media to make a correction but I am sure that there are most certainly grounds for a misunderstanding and I am sure the media will deal with the matter accordingly.

HON CHIEF MINISTER:

I think it arose out of the fact that they said that there was only a majority of one and that the official Members had voted and in fact it could hardly be otherwise because the person who presented the Report was the Attorney-General, he was putting forward his Report and he could hardly have abstained from voting. I would like to take this opportunity of saying, Mr Speaker, that in matters which are essentially local and of a possible controversial nature I do not give instructions but there are no instructions the opposite way, that is to say, I do not count on the votes of the official Members to carry through any measure other than purely defined domestic matters, financial and things like that at any one time because they are party to it. I normally encourage them to abstain because I want the majority of the House to be run on the basis of the majority of elected Members.

MR SPEAKER:

I think we have clarified the matter and we will go on to Private Members' Motions.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move: "This House is concerned at the decision of the Government to appoint an additional Trade Licensing Authority to hear one specific set of applications for a particular trading licence and considers that the matter should not be proceeded with in this manner". Mr Speaker, I had this motion down previously and in fact I asked leave of the House to withdraw it when having put the arguments in the House I was told by the Government that the matter would be investigated before it proceeded any further. I subsequently had a letter from the Chief Minister telling me that having investigated the matter the advice he had from the Attorney-General was that it was perfectly correct to proceed in the manner in which it has been intended to proceed and to which I had objected and obviously I am bringing the matter again to the House because as far as I am concerned that letter in no way satisfies the points that I raised in the House since he tells me simply something that I knew before I withdrew the motion, that is, I knew what the view of the Attorney-General was and I brought the motion to the House and I asked for the matter to be debated here precisely because I do not accept his view so to be told that that is his view is to be told the obvious. The opposition that there was to the granting of this licence and the accusations that were made that in fact some people in the Committee had been got at by the objectors is now of academic interest since in fact the objections have disappeared because as quite often happens in these situations from past experience, the objectors can have their objections attenuated, shall we say,

by the person that is interested in the licence buying into a firm that already has a licence. That is in fact of academic interest and really it is not the point at issue as far as I am concerned. I said I think when I moved the motion on the last occasion that it was not up to us in the House of Assembly to decide whether the licence that was being requested was legitimately justified or not, in fact, as regards that particular issue I think it is far from obvious what the objectors could be objecting about or even how the licence could have been refused when the objectors themselves have all been trading without a licence and they are all asking for a licence at the same time as they are objecting to the other one. The thing was far from clearcut as to whether the objections would have held water or not but that is not the issue, the issue that I am raising is in fact that having decided, I think, to get out of the impasse created by these counter-objections and counter-accusations by nominating a new Committee, I think the decision is being upheld quite frankly because the administration or the Government or whatever it is that is responsible for this decision, does not want to admit that they have made a mistake and I think it is obvious that they have made a mistake and therefore although I understand my motion has been overtaken by events since in fact the Committee has met and has granted the licence, that is, the special Committee, the House will recall that at the last meeting of the House, I am afraid we have not got the Hansard and I recognise that it is no fault of the House because in fact of the shortage of time that has elapsed and the fact that it was a continuing meeting and we have not got the Hansard of the previous debate but if Members will try and remember what went on then, there appeared to be some confusion in the Hon and Learned Attorney-General's mind at one stage in the proceedings as to how many Trade Licensing Committees there actually were because in fact there had been one appointed, the second one was still in existence and then the first one had more people appointed to it. As I understand it, Mr Speaker, the Trade Licensing Authority is one Authority. The Ordinance says: "There shall be a Trade Licensing Authority" and therefore there cannot be two Trade Licensing Authorities concurrently. Given that, I think the explanation I was given by the Hon and Learned Chief Minister in his letter was that the Attorney-General's view was that the appointment of one body constituted as a Trade Licensing Authority de facto terminated the appointment of the preceding Committee presumably even if they have not received a letter telling them that their appointment is terminated. But if that is the case, if the fact that a new Committee was set up de facto terminated the previous Committee, then I assume I am correct in deducing from that that all the meetings that have been held by the previous Committee after the appointment of the second Committee are ultra vires and all the licences they have issued are invalid because they do not exist. If that is not the case then I imagine that the licence granted by the second Committee whilst the first Committee was still meeting is invalid otherwise it has to be recognised that the meaning of the article 'a' in the Trade Licensing Ordinance has been given a new meaning in the English language and 'a' does not mean one anymore, it means two. I think that the

situation is, quite frankly, Mr Speaker, that the decision has been upheld primarily because in fact it ceased to be a controversial issue as far as the contending parties are concerned and I think that is the wrong way in which to handle the issue, I think a dangerous precedent which is going to make the operation of the Trade Licensing Ordinance even less satisfactory than it already is has been created because I would imagine that any businessman and I certainly would recommend that to anybody if this decision is legitimised, I would certainly recommend to anybody who thinks that his chances of getting a licence are diminished by the individuals who happen to be in the Committee, to object to those individuals on the grounds that he has reason to believe that they are biased and to ask for a new Committee to be set up. Let me say that in fact the Trades Council nominees which were put forward for the second Committee were, in fact, withdrawn before the decision was taken. When the Committee met for the first time the Trades Council nominee made a statement saying that having given further thought to the matter the Trades Council had come to the decision that it would be incompatible with its obligations and indeed incompatible with its role in nominating people to Government bodies, if it accepted that somebody nominated by the Trades Council can actually differ from somebody else as if he were a free agent because as far as the Trades Council is concerned the people it nominates are not put on Government bodies to look after their personal interest, they are put on Government bodies to look after the interests of working people and trade unionists as a whole and therefore they are supposed to look at a case, for example, in an issue like the trade licensing if they are looking at whether the needs of the community are adequately met they will be looking at two things; at the interest of working people as consumers and at the interest of people working in that trade or business whose jobs might be put at risk by the issue of an extra licence. That is how they are supposed to interpret and the Trades Council having given further thought cannot accept that one individual can interpret that by voting no and another individual can interpret that by voting yes and in fact since there are substitutes, if there is a clash of interests because one individual there might have it in for somebody or might have family connections where they have got an interest in that area, then there are two substitutes that can replace the two people there. In fact, the four members were removed, that is, the two members who had indicated that they had been got at and the two members who had indicated no such thing were removed. Two people were substituted who subsequently said they would not be attending and in fact resigned before the licence was issued, before the decision to grant a licence was taken. On the other side, on the side of the representatives nominated by the Chamber of Commerce, the two people who were originally substituted for the special Committee have in fact remained for the normal Committee. So, in fact, we have a situation where in practice on the Chamber of Commerce side the people who form the normal Committee and the people who form the special Committee are the same people whereas on the Trade Union side they are not because they were precluded originally from being and because the two substitutes that were put on the special Committee were

subsequently removed and in fact the Trade Union side were not represented when the decision to grant the licence was taken. I am just giving that information to indicate to Hon Members that it has been anything but a straightforward operation of this special Committee or a straightforward decision but my main bone of contention is that I believe that if the argument is used that once the Committee was nominated initially and appointed and gazetted, the first Committee de facto ceased and I would have thought that in that case a letter should have been written to those members informing them that they were no longer the Trade Licensing Authority because a new one had been appointed and that their appointment would continue after the previous one had been terminated and it has not happened, then I would have thought that if that is the case and if my reading of the law is correct, then all the licences issued during the period when the two Committees were in existence are invalid and in fact I can tell the House that I shall certainly be taking the matter further in challenging that, if necessary, to prove the point in Court.

HON ATTORNEY-GENERAL:

Before the Hon Member does give way, could he explain why he sees that as legally invalid?

HON J BOSSANO:

Well, because, Mr Speaker, as far as I am concerned if the law says "there shall be a Trade Licensing Authority and the Trade Licensing Authority shall be composed of so many members" and you set up such an Authority, you then set up a second Authority either there are two separate Trade Licensing Authorities in existence simultaneously or else there is a Trade Licensing Authority with twice as many members as there should be which the law does not allow either. If you have a meeting of the first Trade Licensing Authority to take a decision on a licence then clearly the Authority is constituted because as far as I am concerned my reading of the law is that the Authority exists all the time. You do not just say the Authority exists between 9 and 10 o'clock because that is the time it was meeting, it exists all the time. Therefore from the moment it was gazetted, that was the Trade Licensing Authority. If the correct interpretation of the law is that from the moment the names of the new Authority came out in the Gazette de facto the previous Authority had its appointment terminated irrespective of the fact that they were not informed of this, then the meetings that the previous Authority continued to have after the second one was gazetted and the licences it issued are in fact all invalid because it was no longer the Trade Licensing Authority and it no longer had the power to grant licences. That is the point that I am trying to make. If that is not the case then I am saying the second Authority when it met and it granted the licence could not be the Authority because it meant that the first one's appointment had not been terminated since they continued to meet and they continued to grant licences.

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

HON CHIEF MINISTER:

Mr Speaker, before the Hon and Learned Attorney-General gives his view of the law and why the Hon Member's proposition may or may not be acceptable which is a matter for him. I think I owe it to the Member, having asked him to withdraw for the time being, to give my side of the version as a Member of the House and having to carry the undertaking I gave that I would look into the matter even though when I looked into the matter and I replied to the Member he was not satisfied, that is his privilege and I am not going to quarrel with that. I also had a very interesting discussion with the Hon Member who gave me a very vivid account of certain aspects of this matter which I need not go into but when I state the facts I will state matters of principle which I think ought to be considered, whether in this case or in the future, about this question of people approaching or people saying that they have been approached which is a different thing if they do not want to be concerned with a particular application. I want to satisfy the Hon Member, whether he agrees with me or not, that I carried out in my undertaking to look into the matter and I have a note here, it is a departmental file, and in order not to introduce names I will call one company (a) and another company (b). There are two companies involved in this matter and therefore I will call them (a) and (b) rather than mention the names of the firms because I think we are concerned with the principle and not with the companies. Company (a) applied to the Trade Licensing Authority for the issue of licences under the Trade Licensing Ordinance to import, export and trade by retail in amusement machines. The application met with opposition from local operators. At a meeting of the Licensing Authority held on the 25th February, 1983, objections were raised and Senior Counsel advised that the Authority should not hear the application - perhaps I should pause there a moment and say what I understand to be the case - objections were raised on the one hand by the representatives of the opposers that some of the members of the Committee had been approached by the applicant or the other way about and in fact somebody volunteered, who has not been challenged to say: "I have been approached", perhaps in order not to sit for the application for whatever reason that may be, that remains a mystery. So that on that advice the Senior Crown Counsel who sits in the Committee as legal adviser to the Licensing Authority, advised that the Authority should not hear the application very much the same as the Hon and Gallant Member will remember in a court martial: "Do you object to any of the members here or have you got any objection?" If you say yes and it is valid, you substitute one because they say: "This fellow has it against me", or what have you. The Crown Counsel advised that that Authority should not, having regard to what had happened there, hear that application because it could have been later challenged because some people had been got at or some people had said that they had been got at or had been approached, I think got at is the wrong word. He

further advised that the Authority be reconstituted with a different membership to deal both with this particular application and those of the objectors. Action was taken to reconstitute the Authority as advised but an oversight occurred whereby six members only were appointed, they missed one.

HON J BOSSANO:

Will the Hon Member just give way on one point because it seems to me that in the brief that they have prepared they have omitted one stage in that. I think in that brief that the Hon Member has one important element has been omitted and that is when the decision was taken or the advice was given to appoint a new Authority, I can tell the Hon Member that I spoke with the Crown Counsel and I asked the Crown Counsel if in fact the objection had been made that the people who had been approached or the information had been volunteered that someone had been approached by those sitting in that Committee, why wasn't the Committee then reconvened using the substitutes who I could tell the Member had not been approached and were prepared to say they had not been approached and I asked that if they are saying they have not been approached what is the objection to the substitute being used and I was told quite clearly over the phone by the Crown Counsel: "There is no objection to the substitute being used". And then I said: "Well, then why do you want to set up a new Authority?" I was then told: "Well, we will look into the matter", and the next thing I knew the new Authority had been gazetted.

HON CHIEF MINISTER:

I do not dispute that because it has been seen by the Hon Member that I am reading from a prepared note. Anyhow, action was taken to reconstitute the Authority as advised but an oversight occurred whereby six members only were appointed so therefore there wasn't a fully substitute constituted Trade Licensing Authority, whether it was the right one or the wrong one it was one short. In the meantime Mr Bossano raised the matter in a motion here and after discussion agreed to withdraw it on my undertaking that I would look into the matter. The application of company (a) was withdrawn and no application had been put in by (b) who were the objectors so that really the point ceased to have any relevance anymore. It was then decided that all that was required was to appoint the seventh member to the alternate Authority, for that alternate Authority to hear the applications pending over which there were no difficulties any more because there was no objection and abolish the alternate Authority and enable the original Authority to deal with the other applications and there still remains my duty to fulfil my undertaking to the Hon Member to look into the matter and then the position therefore was that the legal advice continues to be that the matter should be dealt with by an alternate Authority and that Mr Bossano should be so informed so that that action can proceed. I so informed the Hon Member and he wrote back saying he was not satisfied and he has raised it here. Having said that and

whether that is right or wrong, legal or not, whether the Hon Member is going to involve himself in legal proceedings that is his privilege, that is a matter for him, but there are one or two aspects of this matter that ought to be aired in this debate. First of all, it is not unknown not only for people to be approached but for letters to be sent every time there is any application to everybody saying: "We are opposing the application of so and so", the Chief Minister, the Leader of the Opposition, GLWA, Transport and General Workers Union, Taxi Association, whatever it is, there is no difficulty about putting a huge list of distributions, the papers, television, everybody. You could say that that is an approach and therefore that members are thereby tainted from dealing with that matter. Well, that, I think, should not be the case otherwise there would never be a set of people independent enough to sit. The integrity lies in the members themselves. On the other hand, if a member hypothetically wants to get himself out of a difficult situation because he does not want to upset one side and does not want to upset the other he says: "I have been approached, I cannot sit", then the Authority finds itself in a very difficult situation which was what happened. I am advised by the Attorney-General that there is no limit to the alternate members who can be appointed, so to speak, that is to say, the Trades Council can appoint two effective members and two substitutes so that they can go down the line. If (a) has been approached you can go to (b) and if (b) has been approached you can go to (c). There is a limit to how much people can do in that respect and in any case being approached is one thing and finding yourself in the situation of being embarrassed to sit is another. One is approached about everything and you say: "Well, that is not a matter for me, it is a matter for this department or the other department". I think that may be the ultimate lesson that we must learn out of this because, and I am not making any specific allegation, things can be manipulated from the top rather than from the bottom, that is to say, people can exempt themselves from that by saying that they have been approached and it would be very awkward, as has happened in this case and I am not saying whether it was right or wrong, it would be very awkward because one or two members, I understand that in that case one of the members said: "I have not been approached, nobody has spoken to me about this matter and I am free to discuss this matter", yet for whatever good reason the legal advice given is: "All these people are out, let us have another lot". I do not think that will happen again but I think whatever happens as a result of this motion we ought to have a longer list of waiting members and if somebody goes along and says: "I do not like this fellow, he is the first cousin of the objector or the brother-in-law or what have you and I do not think I am going to get a fair hearing", then it is purely simply saying: "Alright, you cannot have all brother-in-laws waiting there or cousins, you can bring somebody in". I think that is the lesson that we have to learn whatever may have happened in this case out of this matter and I think apart from whatever the Hon Member may wish to say, I think he has rendered a service to the community by drawing this matter into the open in order that

this should be aired. I have therefore, insofar as my undertaking given to the Hon Member, discharged my responsibility, got advise to say that the thing had been rightly done and told him and if he is not satisfied it is his privilege to bring it here.

HON G T RESTANO:

Mr Speaker, there are two aspects in this little episode which puzzle me. The first of the two has been brought up just now by the Hon and Learned the Chief Minister and that is this question of the approach. On the Trade Union side the Hon Mr Bossano said that the representatives on the Committee were there to protect the right of consumers generally and the workers in that trade when they looked into any application but I would imagine, therefore, that say a worker in a particular trade went to his Trade Union representative and said: "We know that this company is applying for a licence, it may affect the business that I am working in, I think you should oppose". This happens all the time so is that not an approach? What I cannot understand is why in this particular case that has been brought forward why an approach has been considered to have been something wrong?

HON CHIEF MINISTER:

If the Hon Member would give way. I think I mentioned it in passing, I do not want to lay too much stress, because it came from one member of the Committee saying: "I do not want to sit in this because I have been approached". Whether he had been approached by one side or by the other or by neither is forever to be unknown.

HON G T RESTANO:

That is why I say I cannot understand why the particular individual who said that he had been approached should feel that there was something wrong in this approach, it happens all the time, it happens all the time from the representatives of the Chamber of Commerce who after all represent not only their own memberships and when an application is heard sometimes members of that trade object and they go to their representatives to defend them. They are there to protect the interests of their members as well as the community as a whole, they balance these things up and there is certainly nothing wrong, I feel, in anybody on that Committee being approached particularly in a small place like Gibraltar where everybody knows each other. That is one aspect which puzzles me. The second aspect which puzzles me is why, and I do not think that the Chief Minister has given an explanation for this, a real explanation, why was that second Committee formed? There has been as yet to my mind no logical explanation given to this House as to why that second Committee was formed without using the substitutes. I cannot recall any other Committee in the statute book being replaced by another one when there was machinery to replace anybody who felt in conscience that he should not sit for that particular application. I know that

the first question of the approach cannot be answered by anybody in this House but certainly the second aspect should be answered by this House. Why was that decision taken rather than use substitutes and I would like to hear from the Hon and Learned Attorney-General why that decision was taken.

HON P J ISOLA:

Could I ask the Hon and Learned Attorney-General could he also explain, everybody is talking about substitutes, but I cannot see any provision in the law for substitutes either.

HON ATTORNEY-GENERAL:

Mr Speaker, having had my attention drawn yesterday by the Hon and Learned Leader of the Opposition to Section 64(a) of the Traffic Ordinance, I would be delighted to show him where the substitute provision is. It is in fact in the Interpretation and General clauses. This matter relates to the legalities or what I am going to speak about relates to the legalities. Of course, normally, they would not be a matter of debate they would be a matter that if one party disagreed with the other they would test it in a Court of law which the Hon Member has already indicated he may yet do. My view is that certainly there was only one Trade Licensing Authority, there can only be one Trade Licensing Authority under the 1978 Ordinance and I am also of the opinion that the cases that have now been heard using, if you like, in the mainstream the standard members of the Authority and also using a different panel for the six, I think it was, cases that have given rise to all this, my opinion is that those cases have been quite validly determined and that they are not invalid but I do think that there were two possible ways of dealing with the situation which arose and I think the way in which it was dealt with while legally perfectly efficacious has been less easy to understand from the presentation point of view and I personally think that is the reason why there have been difficulties, if you like, of appearance in the whole matter. As Members know and it has already been said, what happened in this case was that certain members disclosed that they had been approached and the view was taken that therefore it would be proper, I think is the right word, to replace all the members of the Authority and that view was taken and acted upon and they were replaced for the purposes of six particular cases and if Hon Members look at the interpretation in the General Clauses Ordinance it does say that where you have the power to make an appointment you have certain ancillary powers including a power to suspend and I think that correctly viewed what happened here was that the Authority were replaced for the purposes of particular cases. It does not mean the Trade Licensing Authority ceased to exist but it means the composition of it was changed for six particular cases and I think the proper interpretation of that is that there was an implication an implied suspension of the status of the other members while those particular cases were heard and that is the view I have formed after the event and advised on. I also, because I foresaw the question of presentational

difficulties, I also said I thought it would be desirable so that the public would not be confused by the whole thing, to deal with those six cases in a row, in other words, go through the ordinary work of the Tribunal, reach the stage of those six cases to come up, then bring in your temporary members to deal with those cases and get them out of the way and come back on to the mainstream of the tribunal work. That is the way this was handled. Can I just clear up one other point? The reason why a seventh member was appointed was because if there is to be an implied suspension of the membership you have to know who you are suspending and if you have an Authority of seven people but you only suspend six then there is uncertainty as to who remains on the Board and who does not, that is why the seventh member was appointed although there is another view, which I personally do not share, that you have to replace seven by seven anyway, I do not agree with that view myself but there is a view that has been expressed that the Authority is not competent unless a full seven members are appointed from time to time. Having said all that I think there was a presentational problem in doing it this way although I do not think it was legally valid and what is more since I can only say that by way of an opinion I am quite happy to have that put to the test in the Court. I think the alternative way to have settled it would have been to invoke the substitute procedure and in fact I may say myself I think it would have been necessary to engage or appoint some substitutes. I was not there but I have my reservations as to whether it was necessary to replace everybody. My feeling is that it could have been done by substituting two or three members. The source of authority for substitution is not in the Trade Licensing Authority, 1978, itself, it is in the ancillary powers in the Interpretation and General Clauses Ordinance. There is a part in that Ordinance which says that where you have a power to appoint you have a power to suspend and a power to revoke an appointment. There is also a section in that Ordinance which says where you have the power to make appointments to a Board or a Tribunal then you have the power to appoint, I think they call them alternates but it is the same thing and that power, I think the Hon and Learned Member will be able to confirm that that power is not limited to the number of alternates that can be appointed. It is easy for me to say now because it is after the event but in retrospect my own feeling would be that a course of action which would have been easier to understand would have been to appoint substitutes for the particular people who expressed an interest. But in the event that was not done and I think there is also good reason once one has taken a course if it is not a course which is invalid and I do not believe the course that was taken is invalid, I think there is very good reason for keeping to that course so that is what we have done in this case. I had hoped that the Trade Licensing Authority would be able to take those six cases in a sequence so that it would appear to the public that the ordinary course of work was being dealt with, then one reached the point where because of what had happened in a particular case, six other cases were heard by a recomposed Authority and then the ordinary work of the Authority went on again.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. He still thinks that having started on that course it was right to continue with it notwithstanding the fact that the Trade Union nominees had indicated they would not be attending and in fact resigned before the cases were heard and notwithstanding the fact that the Chamber nominees were subsequently appointed to the permanent Board as well and therefore were not substitutes and were not in fact specifically for this Authority only since they sit on the normal one as well. Notwithstanding those alterations in the course of events, he still thinks that having started on it it should continue?

HON ATTORNEY-GENERAL:

Well, one of the easier parts of my position is that I advise on the law and I think it was not legally incorrect to go the way it went and I think there is a good argument for saying once you start a course of action administratively there is a case for sticking to it. Mr Speaker, that is really all I would like to say.

HON MAJOR R J PELIZA:

Mr Speaker, I am very, very perplexed by the whole case being put by the Government. It looks to me that a straightforward action that should have been taken which is if a person who has been approached and by approached I mean intimidated or offered a bribe, that to me is approach, in Gibraltar to call approach to talk about any particular issue is not approach, you cannot help talking about any particular issue. I am sure that every member of that Authority hears all the time what is going on. They are approached by people who are going to put applications who want information and facts on how to do it. I know a number of people who go and see people like that, who are on the Board. Who are they going to go to if not to persons who are on the Board? It does not mean to say that the individual perhaps explaining how the thing works is in any way biased in favour or against that individual because he has been approached in that manner. I cannot, first of all, accept the undefined way in which the Chief Minister has talked about approach because I do not suppose he even knows what this man meant by approach and I would have thought that the first thing to find out is what happened in this approach that the individual concerned felt he could not sit on that Board? That is the first thing that has to be asked, in my view.

HON ATTORNEY-GENERAL:

If the Hon and Gallant Member would give way I would be grateful. A point I should have covered, Mr Speaker, I think what happened was that the Authority sat and one of the members or more than one of the members disclosed that they had been approached or solicited. I think there is a very important

consideration that arises then and I am sure it arose in the minds of the people who gave the advice on this matter. It is not just a question of how he was approached or to what extent he was approached, it is a question of appearance. If he is sitting in an Authority in public or partly in public and he announces this, then one has the problem of appearance to contend with as much as a substantive problem.

HON MAJOR R J PELIZA:

If we go by appearance, in fact, we have gone all the way round to affect appearance in that it is now thought that you are obviously constituting a Board to fit that particular situation and if appearance is the criteria you have made it 100 times worse than before if one has to go by appearance. I accept one has to go by appearance but to go by appearance is if you have a body which is supposed to look into this matter, that body must be sacred, must be kept, must be defended, must be upheld and any changes that are undertaken which will change the composition of that body would only give the appearance, which is I think very important, not only must you do justice but you must appear to be doing justice, that is completely destroyed particularly when two members of that particular Board resigned because of what is happening. So the big question mark comes along, what the hell is going on? Quite justified. I am sorry, I will leave hell out. I think, Mr Speaker, that the Hon Member is more than justified in bringing the matter forward. I think it is very important, particularly in this House, with all these quasi judicial bodies, that we should keep a very careful eye on what happens because I think it is an extension of the power of Government and because it is an extension of power which could be manipulated, it is vital that this House should bring matters of this nature so that justifiably or unjustifiably the matter is brought to the notice of the public at large and is put right. What is interesting, and this is the second time at this particular meeting where individuals or bodies are going to take matters to Court in connection with this quasi judicial body. Yes, it is. We had a very long debate here yesterday on this very matter and now we are having another debate on this very matter and my advise to the Hon Member is that if he is going to take the matter to Court to do it as quickly as possible before we have retrospective legislation to have two Boards. This is what we were defending here in the House yesterday and this is why I stood up again here today to defend. I totally support the motion and I hope the Hon Member takes my advice, if this is defeated as I am sure it is going to be, that he takes quick Court action on the matter.

HON P J ISOLA:

Mr Speaker, I agree with a lot of what my Hon and Gallant Friend has said on this motion and certainly in the advice he has given my Hon Friend, Mr Bossano, because it seems to me there will be need for legislation because, Mr Speaker, frankly, to me there is only one Trade Licensing Authority and that is the only Authority there is under the Ordinance and if

another one has been appointed, in my view it is ultra vires, it is as simple as that, it is outside the law and therefore the one appointed is an invalid Authority and therefore the decision it made is also invalid. But then, Mr Speaker, as my Hon and Gallant Friend has already stated, this is not the first time these things have occurred and obviously I think the House has to be concerned that the Government, the administration, has acted in a way that it has no authority to act under the Ordinance. I think I heard the Hon and Learned Attorney-General say that if he starts off on a particular administrative line it is better to go on with it. I would respectfully say it is not better to go on with it.

HON ATTORNEY-GENERAL:

If the Hon and Learned Leader of the Opposition would give way. I am of course assuming that it is founded on a sound legal ground.

HON P J ISOLA:

I can only refer, Mr Speaker, to my objection to repealing 2(ii)(a) of the Elections Bill and then being convinced by my Hon Friend that there was a lot of merit in: repealing it and then in Committee Stage saying so and withdrawing it. If one is wrong I think it is better to withdraw in time than to go on like bulldozing ahead and finally run into trouble. I do not know whether the Hon and Learned Attorney-General was under pressure from legal advisers on both sides and said: "Let us get on with it and see what happens". Certainly, with the greatest respect, I just do not see where the Authority lies in law for the appointment of a second Trade Licensing Authority one being in existence. Mr Speaker, having said that, I think that this motion does give us an opportunity to look at the Trade Licensing Authority and to look at the misconceptions that are obviously held about it. I have heard the Hon Mr Bossano say in an aside when my Hon Colleague, Mr Restano, said that it is quite a normal thing for members of the Committee to be approached by members and the Hon Mr Bossano said: "This is happening every day". Well, to my view, if it is a quasi judicial body that is totally wrong, too. It is a quasi judicial body and it should make its decisions on the evidence that is presented to it. I expressed these doubts originally in 1978 Ordinance when it was brought to this House. I said: "What sort of thing is this going to be? Is it going to be a thing where licences are given by a chat-up between the trader and the union officials getting together and saying:- 'We will give it to this guy, we will not give it to the other'" That is, surely, not the intention. They are sitting in a quasi judicial capacity. They are picked from trade and they are picked from trade unions so that they can assess themselves the situation in a more realistic manner than, for example, the Surveyor and Planning Secretary or the Administrative Secretary in the Government or the Establishment Officer. But that does not make them any less a quasi judicial body and if Senior Crown Counsel stopped the hearing because one member had been

approached and if this is happening every day, then in my view, there is need for statutory enactment making an obligation on the part of every member of that Committee every time he sits to state to the Committee whether he has been approached or not, a legal obligation to do so.

HON. ATTORNEY-GENERAL:

I am sorry, I do not want to abuse, Mr Speaker, but if the Hon and Learned Leader of the Opposition will give way. I do not really think it is fair to say that Senior Crown Counsel or Crown Counsel or myself is in the practice of stopping hearings of statutory bodies in this way, I think this was a single incident.

HON J BOSSANO:

It has never happened before.

HON ATTORNEY-GENERAL:

I think it happened once. It has happened, there have been certain consequences, no more than that.

HON P J ISOLA:

Yes, but we are told this is happening every day and Senior Crown Counsel stopped it because there was probably a lawyer there who told him: "How can this man sit if he has been approached?" What I am saying is this, I know myself members of the Committee are approached, everybody knows it. If that is going to stop the Committee sitting then (a) it should be an offence to approach any member of the Committee on a pending application - well, I am sorry but you either do it one way or the other or we have a free for all you do not stop any approaches, we have lobbying like we do with the House and everything else before a meeting of the Committee. You cannot have it both ways. You cannot have a Committee and turn a blind eye to the reality that everybody is being approached and continue with that Committee if you think it is wrong that people of the Committee should be approached.

HON CHIEF MINISTER:

If the Hon Member would give way. We are dealing with a very interesting and important matter and let me tell the Hon Member there is no Government policy in this matter at all. What I mean is we are not enunciating any policy as to how it should be done. We have been acting on legal advice and we have to act on legal advice. But there are two ways of approaching the matter. After all, the Tribunal itself can hear people opposing it so people who oppose it make their views known to the members before they go there and in the Committee and therefore I think that there is differences in the kind of approach. One thing is receiving a letter and saying: "We will be opposing this" and sending members of

the Committee copies of letters sent to the Chief Minister or to the Secretariat saying: "We think no more licences should be given, there are enough", and all that. That in itself is just representation. An approach is getting the people more involved. I would have thought that attempting to corrupt or attempting to influence the view of any member is itself already an offence. But the point is to what extent are members going to be denouncing this sort of thing if it happens? After all, they are doing a voluntary job in sitting there and listening. It is important, I agree, and we ought to find ways in which this matter can be eradicated but I think there are differences. In this case it was not just simply an approach, it was more than that. It was that a member said: "I cannot sit because I am involved".

HON J BOSSANO:

Will the Hon Member give way? What actually happened, Mr Speaker, was that the lawyer of company (a) which is the company that people were objecting to because it was coming in from outside which subsequently has bought into a local company and consequently withdrawn its application and therefore the alternate Authority set up to hear company (a) has not heard company (a), apart from anything else, the lawyer challenged the eligibility of members of that Committee because he said that they had been approached and then one member of the Committee volunteered, perhaps because he happens to be on the same wavelength as the lawyer, one does not know, volunteered the information that his mind was already made up and that he would be voting against the licence being granted because in fact he had been persuaded by the people objecting before the sitting of the Committee. Another member who also represented the Trades Council said that certainly he had not been approached and he had not made up his mind and therefore he was free to vote one way or the other once he heard the evidence. Nevertheless the decision taken by the Crown Counsel was because this one member had volunteered that to scrap the whole Authority and set up an alternate one. Those are the facts and I am saying that that way of proceeding is incorrect and I said so in the motion and I withdrew the motion because I did not want to create a lot of hustle, I just wanted things to be done, in my judgement, in a way that would not create precedents for the future which I consider to be very dangerous but nevertheless having withdrawn the motion, having had the matter investigated it was decided to proceed on the original lines and therefore I felt that I had to reintroduce the motion and therefore bring the whole thing out into the open.

HON P J ISOLA:

I agree with the Hon Member that in my view a different Trade Authority there just isn't authority under the Ordinance to appoint, I agree with that. But I am going a bit further because is it policy, there is a Committee that sits, people who object, there is a procedure laid down in the law, they object to the Secretary and they send a copy of the objection to the applicant's lawyer or the applicant himself, then a

hearing is set and you expect to have in front of you four people who represent trade, some are meant to be independent and some represent the unions and you expect them to hear and decide the case not on what they have heard outside or on the lobbying they have had outside but on the merits and with their own knowledge of affairs.

HON CHIEF MINISTER:

In fairness, they are doing that all the time until this happened.

HON P J ISOLA:

Well, I do not know because if I am told that it is a regular thing to lobby before the meeting and all this, it is a matter the House should be concerned about that, too, and I think there should be amendments proposed to the legislation. The other point I would like to make is, what I would like to ask the Hon and Learned Attorney-General is that the appointment of alternate members, I do not know who does it, I do not know whether

HON CHIEF MINISTER:

If the Hon Member will give way. The bodies represented are asked to nominate alternate members and that is why I thought that a bigger reserve of alternate members suggested by the particular bodies would be a better way of doing it.

HON G T RESTANO:

Could I ask, do the independent members have alternates?

HON CHIEF MINISTER:

No, they opt out when they feel that they are concerned, as far as I know. Anyhow, the bodies are the ones that I am talking about in this case.

HON P J ISOLA:

Because I hope that under the Interpretation and General Clauses Ordinance the only person who can appoint the alternate members is the Governor. I presume that there is in existence writings signed by the Governor or whoever it is that discharges

HON CHIEF MINISTER:

No, no.

HON P J ISOLA:

Well, the Interpretation and General Clauses Ordinance says that when somebody has the right to appoint members to a Committee that person has also the right to appoint alternate members so I hope that at least the alternate members who have been appointed have been appointed by authority of the Governor under the Ordinance, it has not been just somebody in the Secretariat or the Chamber of Commerce telling somebody else: "You go today instead of me". I hope that is not the position either. Mr Speaker, I agree with the motion because I think it is a matter for concern that the provisions of the Trade Licensing Ordinance should not have been complied with but I also think that the motion having been raised the Hon and Learned Attorney-General should go into the Trade Licensing Ordinance and decide whether there should be penalties imposed under that Ordinance for people who approach members of the Committee in respect of a pending application and, secondly, an amendment to the Ordinance to make it obligatory on the part of members of the Committee when they sit to hear an application to make a declaration that they have not been approached and if they have been approached to state who by because I think that is important if we are going to have a quasi judicial body doing its function as was intended by this Legislature. Thank you.

HON A J CANEPA:

Mr Speaker, listening to a debate on this motion I think it is clear that there is generally in the House a lack of confidence in the independence of the Trade Licensing Authority. Let me say that I was not aware until very recently that this was in fact the case but very, very strong views on the matter appear to have been uttered this morning and I think the matter warrants further investigation. I had not intended to say very much on the motion because the whole matter is more of a legal, in my view, than of a policy nature but the Trade Licensing Ordinance is in my Ministerial portfolio, it is one of the pieces of legislation of which I, as Minister, am responsible. My involvement with the Trade Licensing Authority is limited entirely to receiving the minutes of their deliberations and to discussing with the Chairman not the individual applications which are received, this I have never done, but matters which arise from the deliberations of the Authority which may entail legislation, as was the case earlier in these proceedings where as a result of discussions on matters which the Chairman brought to my notice, I took proposals to Council of Ministers that we should amend the Schedule by adding the items that were added earlier in the proceedings. But I think that arising from this lack of confidence in the independence of the Authority, I think it is incumbent upon me to give the matter

HON P J ISOLA:

Would the Hon Member give way? Please let me assure him that I am not saying that I have no confidence, if he is insinuating that, all I am saying is that it is wrong for a quasi judicial body for it to be accepted that they can be approached.

HON A J CANEPA:

No, I have not heard any statement made here this morning other than the Hon and Gallant Member who seems to have come to this meeting of the House with certain words that I will not repeat very much in his mind because it has now cropped up on two occasions. No, I have not heard any statement to that effect but the implications of what is being said are rather serious because there are clear indications that the members of the Trade Licensing Authority are not, when they sit down and deliberate and they receive evidence from the two parties, either from the applicant or objectors, they make their indications that they may have been, shall I say, got at before, that they may have been lobbied and that therefore in some cases their minds could well have been made up before they sit and hear the applications and therefore there could be indications that matters are not being dealt with entirely on their merits. I don't know therefore whether rather than making it an offence for people to be lobbied or make it a requirement for members to declare whether they have been approached, I don't know whether the answer is not to change the composition of the Authority, have a small Authority consisting entirely of officials, of civil servants. I hope that the lack of confidence or the possible lack of confidence which the Hon and Gallant Major evinced in certain civil servants in respect of the administration of the MOT test would not apply here.

HON MAJOR R J PELIZA:

I did not say anything about any civil servant. I really condemn that statement of the Minister. I have a very high opinion of our civil service and always have had it. What I referred to was to circumstances which lead to that, in other words, do not put the temptation in their hands. That is what I was saying and I take great offence at what the Minister has said and I hope he will withdraw it. I have a very high opinion of our civil service, I have always had it, and as previous Chief Minister I can evaluate the good work that they do.

HON A J CANEPA:

I do withdraw that but if we are not going to put temptation in the hands of civil servants then civil servants cannot fulfil, cannot carry out their functions because they have a job to do and if in exercising that job for which some of them are well remunerated, temptation is put in their hands then what are we on about? I think what is required, as I say, some thought to be given to setting up an Authority, perhaps, three officials, the present Chairman, the Consumer Protection Officer and one other senior official and I think the danger of members of the Authority in that case being lobbied would be considerably minimised.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I think that this is, quite frankly, a totally separate issue from the motion because in fact the motion is not expressing concern at the behaviour of the original Authority, it is expressing concern at the behaviour of the administration in eliminating the original Authority. I certainly cannot have any confidence in replacing members of the Authority nominated by trades and by unions by senior civil servants since I am expressing total lack of confidence in the decision of the senior civil servants who have decided to introduce a second Licensing Authority outside the parameters of the law.

HON A J CANEPA:

I quite accept that I am not speaking on the motion. What I am saying is that as Minister for Trade charged with the responsibility which I have in respect of this Ordinance, I think it is my duty to carry out certain investigations and discussions and as a result of that to give serious consideration to having a new Authority altogether and that I propose to do.

MR SPEAKER:

Are there any other contributors to the debate? I will then call on the Hon Mr Bossano to reply if he so wishes.

HON J BOSSANO:

Mr Speaker, I would just like to say that the contribution by the Minister for Economic Development and Trade which has just been made is in fact irrelevant as far as the motion is concerned but there is an indication of what he presumably thinks is needed to correct the situation which I have brought to the notice of the House, I cannot see how he comes to that conclusion. I am pointing out to this House that in fact in my judgement, and I am asking the House effectively whether they concur with my judgement, the administration has dealt in connection with a situation arising out of one member of the Trade Licensing Authority admitting quite openly that he was biased and that therefore if he had to vote in a particular way because he had made up his mind prior to seeing the evidence because one member did that the administration thought the correct thing to do was to scrap that Authority and set up a second one just to hear that application in spite of the fact that there have been objections from those who have had to take part in the operation of the second hearing throughout. I cannot see how one comes from that to the conclusion that possibly the best thing to do is to scrap the nominees by representative bodies and put in senior civil servants when in fact it is the behaviour of senior civil servants that I am criticising, not the behaviour of the people nominated by the Chamber or the people nominated by the Trades Council. I cannot for the life of me see how that conclusion is drawn. The issue as to whether in fact it is right that people should

write letters, and I can tell the House that I know that this is the case, every time that there is an application, for example, a construction industry where there is absolutely no work and where a lot of firms are on the verge of going out of business, the firms concerned write to the Authority formally putting their objections and they certainly write to the Trades Council pointing out that this hearing is going to take place and that in fact there is no work to go round and that they hope that the Trades Council will take into consideration just how bad the situation is. I do not know whether that is illegal or not and I am not sure whether we should make that illegal or not and I certainly would not agree that because that happens the matter needs to be investigated and therefore you need to replace civil servants and substitute them for Trade Union and Chamber representatives. Presumably the industry will write to the civil servants and then what do they do, get sacked for having received letters because that is what the Minister is proposing to do, sack the representatives of the unions and representatives of the Chamber because somebody writes to them or somebody approaches them. I really cannot for the life of me see what the connection is between one thing and the other and the only thing I can say, Mr Speaker, and I think I need to say it, is that in fact the idea that the Minister has put forward of investigating the matter and substituting the representatives of the trading community and the workforce by civil servants is not a good idea.

HON A J CANEPA:

If the Hon Member will give way. I can tell him that two or three days before we were about to publish a Bill that would have amended the composition of the Authority back in 1980 because of dissatisfaction on the workings of the Authority which had been represented to me shortly after I became Minister for Trade, two or three days before that Bill was about to be published, as a result of meetings which I held I withdrew it but I think I need to look into the matter once more.

HON J BOSSANO:

Well, this is what I am saying. That the Minister has tried to do it before and it has been resisted before and it will be resisted again and it has nothing to do with this motion or with the issue that I have brought to this House. If he wants to do it for other reasons let him not say that because I have brought it to the House it shows that the Authority is not working well. I am saying the Authority is working as imperfectly as any body of human beings work, that if there is a need to control the lobbying let us take a decision that there is a need to control it but let us not accuse the people who are being lobbied when we have not taken a decision to control it and let us not use, in fact, the failings of the administration as an excuse for giving them even more power.

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

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 R J Wallace

The motion was accordingly defeated.

HON A T LODDO:

Mr Speaker, I have the honour to move the motion standing in my name which reads: "This House is concerned that a project which took so long to come to fruition, namely, the Westside Comprehensive School, should have already encountered serious difficulties resulting possibly from faulty design or faulty construction and calls on the Government for an assurance that all problems will be speedily resolved and that rectification will not involve the Government in any additional costs as occurred so disastrously with the Varyl Begg Estate". Mr Speaker, ever since I could remember the question of the eleven plus examination and in fact reading in a local weekly last Saturday I found a reproduction of an editorial from that same weekly dated 25 years ago which dealt with the eleven plus. Everybody has been concerned with the effects of this examination. Everybody agreed that it had its drawbacks, everybody was worried with the social stigma attached for not passing it giving concern to parents and children alike. But nobody knew exactly what to do about it. In 1969, or it could have been 1970, the Minister for Education at the time, Mr Lloyd Devincenzi, took what I would call a very bold political decision and that was to abolish the eleven plus and introduce the comprehensive system of education. In 1972 the new system was introduced. At that time it consisted of merging the schools, the Grammar School, the secondary modern technical side into one entity under one headmaster and similarly with the girls but there were other implications in the decision to go comprehensive not the least of which was the need to build schools to house these particular entities. Well, the money

for these schools was apparently guaranteed and the decision was taken, first, to build the Boys' Comprehensive School. I am sure it was not from any male chauvinistic idea but we had the Boys' Comprehensive School which was completed in 1975. In 1974 the decision was taken to build the Girls' Comprehensive School and it was estimated that the costs, as costed in 1975, would be in the region of £2,850,000 and it was envisaged that this school would be completed by 1977. It was decided that the best locale for the Girls' Comprehensive School would be the old Public Works Garage in Queensway and it was decided to build a school on this site. Mr Speaker, at this point firm decisions seemed to have stopped and indecision taken over. In order to get the school built, of course, the old Public Works Garage had to be resited and the first alternative site suggested was the old Slaughter House site on the Eastern side of the Rock. This brought a storm of protest, arguments why it shouldn't be built and what have you. Among the arguments brought against the building of the Public Works Garage on this site was that it was on a prime tourist development site and today, Mr Speaker, we have a refrigeration plant and a car testing centre, hardly two tourist attractions in their own right. Mr Speaker, eventually the Girls' Comprehensive School was built but apparently not finished, it was not completed. The question here is but at what cost? It took so many years to come to fruition and from an original estimate of £2,850,000 we are now in the region of £6m, I believe it is £5,800,000. Well, towards the end of last year with much pomp and circumstance, the school was handed over and there was a promise that the official opening of the school would take place in December of that year. In December of that year, Mr Speaker, what we got was a spot of rain, because we haven't had much rain - we heard earlier during the proceedings of this House that this is the third year in succession when we have had a drought - we had a spot of rain and we had problems, Mr Speaker. The problems were that rain had penetrated the roofs and that the stormwater drains had needed more works done to it. This prompted two questions from me in the House. The one on the stormwater drain was answered by the Minister for Public Works and I was told that the drain which had been laid had suffered due to heavy plant machinery rolling over and there had been a blockage and it had been necessary to carry out further works, a very plausible answer which I accepted. The other question which was answered by the Minister for Education was had there been any damage to the school as a result of the penetration of rain and I was assured that there had been no damage, that there had been slight penetration, some faulty flashing in the roofs. Again a very plausible answer which again was accepted. Last month, Mr Speaker, the ceiling of one of the classrooms collapsed. Fortunately, there was nobody there at the time so we have no personal injuries to be lamenting at this time. And not only that, Mr Speaker, but apparently cracks are appearing elsewhere in the school. Well, this brought from me a prompt letter to the Minister for Education which I made public. The House might ask why I picked on the Minister for Education and the reason is that in December I had two questions down, one had been answered by one Minister and the other by the other Minister and when the collapse of the ceiling occurred the Minister for Public Works was away from Gibraltar and I felt

that I should direct my correspondence to the Minister for Education. I got my letter off and I got my reply shortly before this House met on this occasion. So, in the reply the Minister gave me assurances that the investigation would proceed and that I would be informed of developments. So why bring a motion to the House, you might ask? Well, the answer to that, Mr Speaker, is that in January of this year the Headmistress of the Girls' Comprehensive School felt so concerned about the fact that the school had not been completed and that teaching and certain subjects, one of them was home economics, could not be carried out satisfactorily, she felt so concerned, Mr Speaker, that she took it upon herself to write a letter to the parents of the children in that school. For a top civil servant to take that decision she must really have felt concerned. Mr Speaker, in her letter she said that representations had been made to Government but that little seemed to have happened since the representations were made and that the letter had been sent in the hope that it would bring the response from whoever was responsible for this state of affairs. So, Mr Speaker, the school opened, although not officially, it opened because there was a crying need and in January, a month later, the Headmistress is still concerned and I believe that to date nothing can have been done because the school still has not been opened officially. Mr Speaker, this brings me to the last part of the motion which I also brought up in the letter to the Minister, and that was that I was reminded of the Varyl Begg roof's fiasco. For years the tenants of Varyl Begg had to suffer from leaky roofs whilst discussions went on as to who was responsible or who was not. At the end of the day the people of Gibraltar foot the bill for £1m for a fault which was not theirs. The answer we were given was that it was an improvement to the building, an improvement, Mr Speaker, which shouldn't have been needed if the building had been properly built in the first place. Mr Speaker, there are a number of questions which should be asked. The ceiling of the Home Economics Department collapsed, there are cracks appearing in other places in the building, we had leaky roofs within three months of opening. Are these design faults? Are these building faults? God knows we have had enough consultants, architects and what have you. How close a look had been kept on the progress of the building as it has been going up? Were all the materials used for the building vetted? Were all the materials used in the building of this school up to British standard? Have Government paid the retention money or have we still got that in hand as a bargaining point? What we cannot have is a situation where Government says: "No, it is not our responsibility it is the consultants" and the consultants say: "It is the builders", and in the meantime this drags on interminably. That we cannot have. It is very much the concern of the Government, it should be very much the concern of the Government. It is a project which is a one in a lifetime project. It is a project which has cost nearly £6m. You do not build comprehensive schools every other day and it is a matter which should seriously concern not only the Government but all of us in Gibraltar because when we were going to build the school originally the money was forthcoming from ODA, I believe, before my time, but the balance has had to be met from local resources. The biggest question of all, Mr Speaker, is

whether at the end of the day the people of Gibraltar have to pay? Under ordinary circumstances, Mr Speaker, I would think that this would be wrong but under the present circumstances in Gibraltar this is unthinkable. Mr Speaker, I hope that Government will ensure that enquiries are speedily concluded, that the results of that enquiry are made public, that the long-suffering pupils and teachers of the Girls' Comprehensive are not made to suffer for much longer and, what is most important of all, that at the end of the day the people of Gibraltar are not made to foot the bill for something which is not their fault. Mr Speaker, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon A T Loddo's motion.

HON M K FEATHERSTONE:

Mr Speaker, I am not going to go through all the initial part of the Hon Mr Loddo's comments on how Gibraltar went Comprehensive or what have you but he was a little incorrect where he said that the school could not go on the site of the Public Works Garage, there was a much longer history than that. There was a whole investigation, the initial site proposed had been the Hargraves Parade area and then there was a whole investigation and a commission in which, I think, the Cormorant area was considered, Alameda Parade area and eventually the MOD gave us the tongue at Montagu and then it was that the idea to put the school in that area came up and then the Public Works Garage came into the picture but that is already water under the bridge and it is not worth considering it very much more. Sir, I do not want to minimise what has happened but I must in all sincerity give the impression that a serious fault has occurred in the school with the ceilings. The partial collapse was of a false ceiling, not of the intrinsic school structure ceilings which are perfectly sound. A false ceiling, as everybody will know, we have one above us here, is where you have a main ceiling above and a lower ceiling is fitted onto it usually held by some securing method and obviously that securing method is the system which if the false ceiling should collapse, is the item which needs to be looked at and this is what has happened in this instance. The false ceiling had collapsed due basically to a very simple reason, one which I am sure most people have experienced in their own house if they do a little do-it-yourself work in which you put in a rawlplug, you put the screw in, you hang whatever you want on the screw and you find the rawlplug pulls out. It pulls out basically for the reason that the screw you have put in has probably not been thick enough to expand the rawlplug, creates sufficient purchase against the size of the hole in which it has been inserted and falls out and this is what has actually happened in the Girls' Comprehensive School. The rawlplugs did not hold strongly enough against the interior surface of the holes in which they were inserted. It seems basically the reason was that the screws used were not long enough and not thick enough.

HON P J ISOIA:

Can the Hon Minister give assurances that the screws used in other parts of the building are not long enough or short enough or are long enough and short enough?

HON M K FEATHERSTONE:

Until you look at every single screw you cannot say that. What I am saying, Sir, is that they were not long enough and not thick enough.

HON W T SCOTT:

If the Hon Member will give way. Is he quoting from the results of an enquiry?

HON M K FEATHERSTONE:

Yes, I am going to tell you. The fact that the screws were not long enough and not thick enough did not allow the rawlplugs to exert sufficient purchase and apparently in the area where the ceiling has actually collapsed partially there are certain wind pressures, etc which may have exerted more power on the ceiling itself than was expected. I would not call this faulty design nor really faulty workmanship, it is perhaps a fault of detail which obviously is not the best thing but in a very big project minor faults of detail will occur from time to time. It did occur, as has already been mentioned, with the slight water penetration where the flashing was not as complete as it should have been. Sir, the position was that this partial collapse occurred on the 4th June, 1983, and on the 6th June the PWD Clerk of Works reported from the preliminary examinations that it was the fixing screws in the rawlplugs which had pulled through and was allowing the ceiling which had not completely collapsed, it had partly collapsed, but was sagging and immediately contact was made with the consulting architects and they actually came out to inspect the situation on the 16th June. In the meantime the contractors, both their partners here and themselves in London, had been informed of the whole question and the consultants wrote to the contractors stating that not only did they expect the present ceiling to be replaced properly but that the other areas where there are false ceilings should also be inspected and the inspection should be by actually removing part of the plaster ceilings and testing sufficiently so that there would be no possible future difficulties. The consultants have been out here again just recently and the situation as far as we understand it is that the contractors have indicated that this work will be done during the summer holidays at their expense and they will also inspect the other ceilings to see that there is no possibility of a similar repetition. It is, obviously, regretted that this difficulty should have arisen but it is, as I have said, not an unknown thing in any big project that minor matters such as this should come up. I can say quite categorically, it is not anything to do with the basic structure of the building, it is simply a weakness in the fixing of the false ceiling, the

ceilings themselves are perfectly alright. I have not been appraised of any difficulties about cracks appearing but I will look into this and I shall write to the Hon Mr Loddo if there is any untoward situation there but the consulting architects have inspected the whole of the building just recently, in fact, they have made the comment that they find the building in excellent condition and they have also commented that the users of the building are treating it with very great respect which is something which apparently does not appertain in similar types of schools in the United Kingdom where after one year's use the school has often got into quite a sorry state but they have stated here that the users of the building have treated it very well and the building is in excellent condition. I would just make the point that the Hon Mr Loddo mentioned about the letter of the Headmistress that the school was not completed. I am not quite sure that that was an accurate statement in saying the school was not completed. It was some of the items in the school which had not been completed and were not in a position to allow full use to be made of them and I think with regard, specifically, to Home Economics it was the cookers and washing machines which had some electrical requirement, needed to be done to them that was causing the trouble, it was not an intrinsic part of the school as such as far as my knowledge goes. I feel, finally, that to make any comparisons between the minor difficulties with the false ceilings at the Girls' Comprehensive School and the Varyl Begg Estate which, incidentally, was designed during the time of a previous Government, led by the Hon Major Peliza, are rather invidious comparisons. Thank you, Sir.

HON P J ISOLA:

Can the Chief Minister say when the school is going to open officially?

HON M K FEATHERSTONE:

I did say that the work would be done during the summer holidays.

HON P J ISOLA:

With regard to the last remark of the Hon Member, can I remind him, I think he was in the House, that it is not so untoward that a reference should be made to the Varyl Begg Estate disaster because I would remind him, I think it was around 1976, when the leaking roofs started in Varyl Begg Estate and if I remember rightly the Minister then on the Government side was the Hon and Gallant Colonel Hoare who announced to the House at the time that it was a minor thing, it was being looked into and there was no need for concern. That is how it started and hearing the Minister speak now casts my mind back to the answers that were given when the Varyl Begg disaster commenced. I hope he is right, I sincerely hope he is right not just for his sake but for the sake of the pupils and the

people of Gibraltar that everything he is saying is absolutely correct and if that is the case and if it is not going to cost anything to public funds to repair it and so forth, nobody would be more delighted than this side of the House. But I asked him that question, is the school going to be officially opened and when because, Mr Speaker, the school has been in operation since September last year. A school year is about to be completed and we have had no official opening which rather recalls the position in the Power Station which is being operated by Hawker Siddeley and no official opening and certainly it must be a matter for concern that we have a new school, it is open, the pupils are using it and it takes a whole year at least before it is officially opened. It is not complete, it is not finished and my Hon Friend in moving his motion in such measured tones I think has highlighted the concern there must be at problems arising in the Westside Comprehensive School. He referred to the letter that the Headmistress had written to parents as far back as January, 1983, and I would certainly like to hear from the Minister for Education if all these problems have now been met. A whole period of six months has gone by. We do know, Mr Speaker, that the Government always acts very cautiously and very slowly except where taxi drivers or the Taxi Association is concerned but, anyway, we know they take a lot of time to put things right but does not the Government think that six months since complaints were made have been long enough to put these matters right and certainly I would welcome a statement from the Minister for Education on the position in that school. Clearly he is not going to give it, he walked out just as I was asking him, here he is, good. Whenever I mention a Member of the House he is just walking out, Mr Speaker, because I am not going to say much more at all but only congratulate my Hon Friend in moving his motion in such measured terms and to say that, of course, on this side of the House we fully support it and we hope that we can receive assurances that at the beginning of the school year 1983/84 we will be able to have the school officially opened within a week of the opening of school term. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I would like to say at the outset that I am terribly cynical about designs of buildings and designs of designs and it is not only here but in many places where you employ top architects, you employ top consultants, you employ top builders, you pay top money, very top money and naturally you get the top of everything and yet you do not get top results and this seems to be through no lack of ability or designs of building, I don't know I am very cynical about this, it is not only in Gibraltar but in many places you hear of new hospitals having to be closed for months because there are design faults. It may well be as the Hon Minister has said that the rawl plugs were wrong but why were they wrong? This is the sort of thing we want to know. He is not saying that it is justified, he is just giving information but I as a layman and as somebody who does not know anything about building say: "Well, if that is so then somebody must have made an error of judgement". No doubt they consider that it is an

error of judgement when in fact the consultants or the people who did it are going to do it on their own because after all not only is it fair that it is redone, there is bound to be an effect on their respectability and their standing in this particular discipline whether it is building, design, architecture, structure and what have you. This is something which is very alarming and we do not under-estimate at all the concern that the motion has expressed and the concern that there is generally, particularly because of the result of this some classes have had to be stopped and that of course is an unfair thing on the particular students who were doing that discipline. We are as concerned as Hon Members opposite are and more concerned because we have more responsibility, if I may say so, to see that it is done and all that we say is that within the terms of contract, within the terms of what we have paid for, what we have obtained, we shall not hesitate to take whatever steps are required to see that this is put right. In the case of the Varyl Begg Estate from the very beginning there were queries about the design and about the fact that the open terraces had been overloaded with hangings and so on and all sorts of things. Here I am glad to find out, I did not know before the Minister spoke, that no one is questioning anything but that to put it right and therefore we have no hesitation to support the motion except that we cannot go along with the last few words of the motion which says "as occurred so disastrously with the Varyl Begg Estate" and I therefore move formally, Mr Speaker, that the last nine words of the motion be deleted. I so move.

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

MR SPEAKER:

Does any Hon Member wish to speak on the amendment?

HON A T LODDO:

Mr Speaker, really I cannot object to that amendment because I think that all Members here will in fairness realise that this is by way of a comment added on and as I had mentioned this in my original letter to the Minister for Education when I wrote to him, I felt that I had to put it in together with the motion to keep it in consonance with the sentiments expressed in my letter so we have no objection to that being made.

MR SPEAKER:

Any further contributors to the amendment?

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

MR SPEAKER:

Any Member who has not spoken to the original question is still free to do so. Does the Hon Mover wish to reply?

HON A T LODDO:

Yes, Mr Speaker, there is not very much more to say. As I said during the course of my intervention, most of what refers to the Girls' Comprehensive School took place long before my time but I was interested to see that when the decision to build the school was being taken, a number of areas were contemplated, namely, Hargraves area; Cormorant and Alameda Parade and that perhaps when I said about indecision I should have post-dated it or pre-dated it a bit and of course the question of the ceiling collapsing, being told by the Hon Minister Mr Featherstone, that it was just a question of rawl plugs and screws. Well, Mr Speaker, when we are talking of \$6m it looks to me like spoiling the ship for a halfpenny worth of tar if we cannot go to the extent of having the proper length and thickness of screws and rawl plugs and, Mr Speaker, to clear up once and for all the comparison with Varyl Begg it was not on the basis of the defects. I was not here when the Hon and Gallant Colonel Hoare called the defects minor, it might have been minor when they started but they developed. My comparison was in the protracted negotiations and how long everything took to settle and then I do not think it was settled as I would have wished, that was the comparison, really, nothing else. Mr Speaker, I commend the motion to the House.

Mr Speaker then put the question which was resolved in the affirmative and the Hon A T Loddos motion, as amended, was accordingly passed.

SUSPENSION OF STANDING ORDERS

HON P J ISOLA:

Mr Speaker, I would like to move the suspension of Standing Orders.

MR SPEAKER:

May I explain. You have one of two options, doing what you were intending to do just now, to seek the suspension of Standing Orders or leave the motion over because this House is not adjourning sine die but it is adjourning to a fixed date. I thought I would make this comment and it is up to you to decide.

HON P J ISOLA:

Mr Speaker, I would like to move the suspension of Standing Orders in order to enable me to move the motion standing in my name which I gave notice to you, Mr Speaker, yesterday morning and I would ask the House to allow suspension of Standing Orders to enable this motion to be discussed because it is important it should be discussed now and, secondly, Mr Speaker, the statement that has been made by the Hon and Learned Chief Minister in our view is quite inadequate and we would like to debate this matter and in the same way as the Government thought it necessary to suspend Standing Orders in order to enable them to rush through legislation affecting 140 people, I would have thought that Government would agree to suspension of Standing Orders to enable a matter which is of great concern to the whole of Gibraltar to be discussed in this House and I move the suspension of Standing Orders.

HON CHIEF MINISTER:

Mr Speaker, I do not think I have ever opposed the suspension of Standing Orders to discuss matters that have come in that are of importance and have come in out of time, I normally reasonably agree to that but I do not see any point since before the motion was moved I had given notice that I was going to make a statement. I have made the statement, the statement goes as far as I can go and no amount of discussion will move me from that statement - I can tell them now - and I think it would be an utter waste of time so we are not agreeing to the suspension of Standing Orders. I might have said before, Mr Speaker, if you would allow me, that this motion could have been easily in the Order Paper if proper time had been given.

HON P J ISOLA:

Mr Speaker, may I tell the Chief Minister in answer to that that it never occurred to us that the Chief Minister would not make a full statement to the House on returning from England and the motion was prepared on the same day that he did not give the statement and although it is dated the 7th it was actually prepared the day before and put in at 9 o'clock in the morning on July 7th, that is why five days' notice has not been given.

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

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 Hon Members abstained:

The Hon D Hull
The Hon R J Wallace

The motion was defeated and Standing Order No. 19 was not suspended.

ADJOURNMENT

HON CHIEF MINISTER:

I move, Mr Speaker, that the House do now adjourn to the 25th July.

MR SPEAKER:

I will propose the question which is that this House do now adjourn until Monday the 25th July, 1983, and in so doing I would like to take this opportunity to congratulate Mr John Sanchez, who in the recent Birthday Honours List was honoured by Her Majesty with the award of the British Empire Medal. I am sure all Hon Members agree with me that it is a highly merited award. We all know the great service he renders the House and the dedication with which he carries his responsibilities and we congratulate him and his wife and family.

HON J BOSSANO:

Can one comment on the desirability of the adjournment to the date proposed before a vote is taken or not?

MR SPEAKER:

On the adjournment there is no discussion but if any Member wishes to make a short statement I would never ever rule him out but I will not allow the matter to be debated. If you want to make an observation you are free to do so.

HON J BOSSANO:

The observation that I wish to make, Mr Speaker, is that it seems to me in the light of the experience that we have had of adjourning to fixed dates I would like to ask what is the advantage of having a fixed date and can in fact we be assured that there is no possibility at all that developments or discussions or whatever it is that are still taking place will not take longer or be more complicated than might be envisaged and then we find ourselves coming here on the 25th in order to adjourn to a different date. That is the point I want to make.

HON CHIEF MINISTER:

That is a very good point, if I may say so, Mr Speaker, but we cannot do it the other way. We cannot have a longer one and then be ready and bring it forward so that is why I have chosen after considerable thought and discussion with everybody concerned, that this would probably be the earliest date at which a meaningful debate can be had, it does not mean that we will be ready. It may well be that we have to come here and adjourn for another day. There is no other way of doing it because it could be at short notice that we can be ready and then it would take another ten days to summon a meeting of the House.

HON J BOSSANO:

But why do we have to have a date, that is what I am saying? Cannot we just adjourn and then the Chief Minister

MR SPEAKER:

No, with respect, we must adjourn either to a definite date or sine die. If we adjourn sine die, as the Hon and Learned Chief Minister has quite rightly said, then we have to go through the process of giving notice which, of course, takes fourteen days.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Monday the 25th July, 1983, at 9.15 am.

The adjournment of the House to Monday the 25th July, 1983, at 9.15 am was taken at 12.15 pm on Friday the 8th July, 1983.

MONDAY THE 25TH JULY, 1983

The House resumed at 9.25 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammit - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
The Hon D Hull QC - Attorney-General
The Hon R J Wallace CMG, OBE - Financial and Development Secretary
The Hon I Abecasis

OPPOSITION:

The Hon P J Isola OBE - Leader of the Opposition
The Hon G T Restano
The Hon Major R J Peliza
The Hon W T Scott
The Hon A T Loddó

ABSENT:

The Hon J Bossano
The Hon A J Canepa
The Hon A J Haynes

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, when I last moved the adjournment to this morning I indicated to you and the House that I was hoping to be able to move a motion and that this was the earliest day I thought it could happen. As it is, it is not really, the position is that

I shall be in a position to move the motion of what I have given general notice at 4.30 on Wednesday afternoon. Barring any air difficulties I hope to return on the Wednesday plane and I shall then take the very first opportunity on return to move the motion that I had intended to do and I therefore now move that the House do adjourn until 4.30 pm on Wednesday.

HON P J ISOLA:

As you know I have a motion standing in my name of which the requisite notice has been given and certainly on this side of the House we are anxious to have more information as to what is happening. The Chief Minister talks of moving a motion on Wednesday at 4.30 pm which itself will require suspension of Standing Orders, can the Chief Minister not tell us now at least what are the terms of the motion he is going to move on Wednesday?

HON CHIEF MINISTER:

If I knew the exact terms I would not be going to London this afternoon to find out and bring it back on Wednesday.

HON P J ISOLA:

Can the Chief Minister, Mr Speaker, give us some information? Everybody else seems to be giving information about what is happening except the Chief Minister. Does he not think that the people are entitled to know a little more than he has told them so far?

HON CHIEF MINISTER:

Of course the people are entitled to know everything, the only point is when, and insofar as any journalistic speculation that is the privilege of a free press to speculate on what can and cannot happen but what is obvious is that we are in intensive negotiations with the British Government, that I have seen the Foreign Secretary and the Prime Minister, that that was followed by a meeting with the Under-Secretary of State for Defence and that later on there was a further meeting last week upon which certain progress was made which requires an answer from the United Kingdom. It is all related to what is to happen to the Dockyard and what is to happen to the economy of Gibraltar. I am afraid I cannot go any further than that.

HON P J ISOLA:

Can I just ask one last question, Mr Speaker, with your indulgence? Can I ask the Chief Minister why it has been necessary, a British Minister having come to Gibraltar last Thursday, what makes another visit by him to London necessary and can he tell the House who at least he is going to see in London?

HON CHIEF MINISTER:

I cannot for certain say how things are going to go in London but having been once and having gone to the top I do not think that it will be any different.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Wednesday the 27th July, 1983, at 4.30 pm.

The adjournment of the House to Wednesday the 27th July, 1983, at 4.30 pm was taken at 9.35 am on Monday the 25th July, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6 July 1983

Vol. II

WEDNESDAY THE 27TH JULY, 1983

The House resumed at 4.50 pm.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

HON CHIEF MINISTER:

Mr Speaker, at Monday's meeting I sought an adjournment until 4.30 today in order to be able to report to the House the outcome of events leading to the question which is uppermost in our minds and that is the question of the Dockyard. A statement is being made at about now in the House of Commons and in

the House of Lords on the situation, hence the reason for meeting at this time. We are bound, under the terms of a resolution. Paragraph 5 of the resolution which was passed in this House on the 22nd February, committed the Government to full consultations with all the political parties represented in this House before any decision was taken on the commercialisation of the Dockyard. That being the case it was not in my view proper for me to come and make a statement, answer questions and then move a motion. I thought we would have duplicated the events by doing so and, I therefore intend to move the motion now. I also want to seek your authority to read my statement because it embraces a number of details which I cannot leave to notes alone. It is also my intention at the end of this statement to give copies to Hon Members opposite and to the press and to adjourn in order to give the Members opposite an opportunity of considering the statement and meet as soon as possible thereafter to debate the motion. Unfortunately there has been some misunderstanding about procedure which has led us to agree on the time that would be required. I had thought that if we adjourned today until a convenient time tomorrow, at midday or so, the contents of the statement could well be considered by all Hon Members and the motion subsequently debated until all those who want to take part have done so. I will leave the question of the period of adjournment until the statement has been read. If any matter of clarification arising out of the statement can be made now within the Standing Rules I would be quite happy to do that but I should like to express that this is a statement in support of a motion and not a statement.

MR SPEAKER:

Precisely, that is what I want to make clear to Hon Members, that what is happening now is not that the Chief Minister is making a statement on which Hon Members would be entitled to ask questions for clarification, but that the statement will form part of the moving of the motion itself. I think the rules are required to be imposed liberally in matters that concern the interests of Gibraltar to such an extent. I will therefore most certainly give the Opposition limited opportunity, at the end of the moving of the motion by the Chief Minister, to clarify any matters which they may wish to clarify in order to enable them to be able to contribute to the debate when we resume again. Yet let it be clear that whilst I am prepared to bend the rules of practice which I am entitled to do to some extent, I will not under any circumstances have a debate within a debate and provided that I am satisfied that the questions which are being asked are going to be for the purpose of clarification then I will not object, otherwise I may have to intervene.

HON CHIEF MINISTER:

Sir, perhaps I should stress again that had it not been for that amendment I would certainly have come here with a statement but the proposals that I have, of course, have been made subject to the fact that I have to put this motion to the House. The British Government is not in that position, the British Government's executive powers do not bind them as the motion has bound me and that is why I want to make it quite clear.

HON P J ISOLA:

Mr Speaker, may I just say thank you for the clarification you are making because I think you must appreciate, Mr Speaker, and I am sure the Hon and Learned Chief Minister must appreciate, that when there is a subject of this magnitude on which something is going to be said it is usually done in the form of a statement so that Members can then question the statement and question the Chief Minister on more than one occasion. Under our rules of debate, if it is done in the form of a motion, we would only be able to speak once and we would not be able to get clarification on our fears and on other matters until the closing speech of the Chief Minister. So, certainly on the basis and on the understanding that at the end of the Chief Minister's speech we may ask a few questions just to clarify the position, we are happy to proceed on this basis. I must also say that certainly my idea, I should say at this stage, that my idea of discussions between the different political parties in Gibraltar certainly wasn't that there would be a formal motion in this House and a resolution taken but I can raise that in the debate.

HON CHIEF MINISTER:

I didn't get the last part of the Hon Member's remark.

MR SPEAKER:

I think the Hon Member is trying to insinuate that if the Hon the Chief Minister had proceeded by a statement in the first instance they would have had a better opportunity to clarify matters.

HON CHIEF MINISTER:

I do not agree. We are going to have a full debate whereas if I had made a statement all I would have done was say, "This is what has happened, you can ask as many questions as you like at the end of the day". We are bringing a motion to this House, whether it is accepted by Hon Members opposite or not, we are bringing a Government motion in this House which is going to be fully debated. Insofar as clarification is concerned, if there are any requests to give way for clarification in the course of the debate with any of our Members, so long as the requests are reasonable and are intended to clear the air, I shall certainly give way or allow Members to give way to clear up any matters that may be necessary. So I take it, Mr Speaker, that I have your permission to read my statement.

SUSPENSION OF STANDING ORDERS

MR SPEAKER:

Yes, but perhaps you might wish to move the suspension of Standing Order No. 19.

HON CHIEF MINISTER:

Well, I am coming to that in a minute. As the House knows, we have been engaged in the most intensive consultations with the British Government for the past few weeks. I have been to see the Prime Minister twice. I have held a separate meeting with the Foreign and Commonwealth Secretary. I have held a long meeting with Baroness Young, Minister of State at the Foreign and Commonwealth Office, responsible for Gibraltar, Mr Timothy Raison, Minister of State for Overseas Development, Mr Ian Stewart, Under-Secretary of State for Defence Procurement, Mr Ray Whitney, Under-Secretary of State at the Foreign and Commonwealth Office, and numerous officials of the United Kingdom ministries involved. I have held two meetings with Mr Stewart and UK officials in Gibraltar. There have been exchanges by letters and telegrams during this period. Paragraph 5 of the resolution passed in this House on 22 February committed the Government to full consultation with all the political parties represented in this house before any final decision was taken on the commercialisation of the Dockyard. I am now in a position to bring a motion before this House on this matter and I accordingly beg to move the suspension of Standing Order 19 to enable me to propose the motion without the notice normally required.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order 19 was accordingly suspended.

MOTIONS

HON CHIEF MINISTER:

I now beg to move in the terms of the motion standing in my name which is: "That: This House resolves that the offer by Her Majesty's Government to provide assistance for the establishment of a ship repair yard in place of the Naval Dockyard at Gibraltar be accepted and that the necessary measures to establish such ship repair yard be taken accordingly."

Later in my speech I will go into the details of the outcome of the meetings and exchanges we have held. The first thing I want to say and I have to say it as clearly as possible because that is the message that has come through all the way and that is that the closure of the Naval Dockyard cannot be averted.

I know that there are some in parliament who disagree with the policy of the Ministry of Defence in regard to the Naval Dockyards in Britain and in Gibraltar and in regard to defence policy generally. Nevertheless, decisions of these matters have been taken and every politician in this House will recognise the reality of a parliamentary majority of 144 or 147 which will ensure that those decisions are implemented. I do not agree with those who think that by going to our friends in parliament we would have succeeded in having the decision changed.

In reality, the fact of life which we have had to face, is that, however much we may all regret it, and I am the first to regret it, the Naval Dockyard will close. The Naval Dockyard at Chatham has already virtually closed, with a loss of several thousand jobs, and there was nothing anybody could do about that.

I hope that the House will agree on this basic fact of the inevitability of the closure, I hope that the House will also accept that everything possible has been done by the Gibraltar Government to argue against closure but, having been told twice, at the highest possible level in Britain, that there is absolutely no possibility of keeping the Naval Dockyard open, I hope the House will also accept, when I have finished my statement, that the package of assistance which we have obtained from Her Majesty's Government and which will accompany the closure of the Dockyard is a good package and an earnest, first of all, of the total and unmistakable commitment of the British Government, the British Parliament and the British Nation as a whole, to the protection and defence of the people of Gibraltar and, secondly, of the efforts which Gibraltar Government Ministers have made in order to secure that package.

Let me remind the House, first of all, that the Ministry of Defence originally planned to close the Naval Dockyard on 31 March 1983, four months ago. At that time, the whole of Gibraltar, as has happened on other occasions in the last twenty very difficult years, became united. The political parties represented in this House and the representative bodies, including the Chamber of Commerce and the Gibraltar Trades Council, signed a memorandum to the British Government, the message of which was to seek the British Government's agreement to the avoidance of the 'damaging hiatus' which would occur if the Naval Dockyard were to close before some alternative was found.

The signatories of that memorandum will recall that what they put their names to was a request for time so that the necessary investigations and consultations could proceed on the possibility of finding an alternative.

The British Government accepted and granted the request for time. The target date for closure of the Naval Dockyard was changed to 31 December 1983. Closure in 1983 was important to the British Government; for their own reasons. The latest statement on the defence estimates presented to Parliament very recently states, and I quote: "The Gibraltar Dockyard is to close later this year and we are engaged in discussions with the Government of Gibraltar about the possibility of the Dockyard subsequently coming under commercial management."

On 30 June, accompanied by the Minister for Economic Development and Trade, and after the meetings with the Foreign and Commonwealth Secretary and the other Ministers and Officials to which I have referred, I saw the Prime Minister.

I want, first of all, to inform the House, quite apart from the Dockyard and related issues, of the message of warmth and total commitment to Gibraltar and its people which came across, in the clearest terms, at my meetings with Mrs Thatcher. This will be no surprise to the House. As will be seen as I proceed with my speech, the statements of support we have received are not mere words. As I give the details of the outcome of our negotiations, the House, and Gibraltar as a whole, will see that the British Government is putting its money where its mouth is, to an extent which, even in the light of the substantial aid we have received in the past, is unprecedented.

I hope this House will share the view I have consistently expressed over a period of twenty very difficult years that the British Government is solidly behind us. I have stuck my neck out, in the past, on this belief. I am sticking my neck out, more than ever before, on this question of commercialisation and related issues. I will stand or fall by them.

I may well be asked why, on this particular occasion, I did not attempt to rally all concerned in Gibraltar with a view to unity in the face of the problems ahead of us. The answer to this is that I felt that my colleagues and I had a responsibility, as a Government, to go into the whole matter thoroughly first with the British Government to assess what might be achieved. We have done so and, as the House will see, we have achieved a very considerable amount. There were times during the negotiations when, in spite of the obvious goodwill which undoubtedly exists on the part of the British Government, both the British Government and ourselves, because of our different constraints and our differences of approach in certain respects, looked over the brink of the precipice, a precipice over which neither side would have wished to fall.

It is a matter of relief, to both of us, I am sure, that we have avoided the precipice and it is the considered view of my colleagues and myself that the deal we have been able to make with the British Government is not only the best achievable but also a good one in itself. As I make this statement today, an announcement is being made simultaneously in the House of Commons and the House of Lords outlining the outcome of our negotiations. There, of course, they will not be giving the extent of details that we are giving now because they are only making a statement and not moving a motion. That outcome will be seen by many in parliament, and indeed in Britain as a whole, as a generous one. The House does not need reminding of the current situation in Britain. Chatham and many industries have closed down or contracted and no alternative has been provided by the British Government. Millions are unemployed in Britain and in many other countries. Against that sort of background, outsiders, and not only those hostile to Gibraltar, will, as I say, regard the outcome of our negotiations as generous, whatever some people in Gibraltar might think.

My colleagues and I now throw our full weight behind the arrangements we have agreed with the British Government and we earnestly and sincerely call on Gibraltar for unity in pursuing these to a successful conclusion, a conclusion which I am certain we can achieve if we unite but which will be frustrated, with all the dire and grievous consequences which will then undoubtedly ensue, if any of us, on either side of the House, or in any sector of public life in Gibraltar, were to place party, political or any other interest above the good of Gibraltar as a community for which we have fought so hard and so long.

I can now tell the House that one of the results of my meetings with Mrs Thatcher is that Her Majesty's Government will not now close the Dockyard at the end of this year but at the end of 1984, until which date it will continue to be run and managed by the Ministry of Defence. This 12-months' deferment was obtained only at the end of the most strenuous and difficult negotiation and after taking the matter to the highest level in Britain. The present

Government in Britain is not one which, having made a decision, lightly changes its mind. That the decision to close the Dockyard on the 31st December this year should have been changed and a full year's extension granted, particularly against the background of closures and other severe measures in Britain which have gone ahead inexorably, is a measure of the British Government's understanding of our problems and, if I may say so, of the determination and perseverance of Gibraltar Government Ministers.

The year's deferment came about as a result of the personal intervention of the Prime Minister after I myself had gone to No. 10 Downing Street and put the problem to her. I should like to take this opportunity to thank her publicly for it. In doing so, however, I must also make it clear that we have achieved the maximum possible deferment of the date for closing the Naval Dockyard and that, in our view, no further deferment is possible. It is accordingly also our view that we should now, in the closest cooperation with the British Government Departments concerned and with the commercial operator, Messrs A & P Appledore, put our best efforts towards preparing Gibraltar for a commercial ship repair yard and ensuring that it succeeds for the benefit of those who will be employed there and of Gibraltar as a whole.

Once I have set out some of the more important points relating to the conversion of the Dockyard and its role, I will announce the second major breakthrough in our negotiations with the British Government.

It is, I believe, quite possible that the arrangements for the closure of the Naval Dockyard and its substitution by a commercially operated yard are not fully understood. I will therefore do my best to explain these arrangements at least in broad outline. I would also say that it is my intention to distribute to the public at large soon after the meeting of this House, a leaflet which will summarise, in the briefest possible form, the implications for the individual worker, and for Gibraltar as a whole, of the closure of the Naval Dockyard and of the arrangement we have agreed in order to meet that contingency.

The first point I wish to make is that the preferred commercial operator, A & P Appledore, had requested £11 million worth of Naval work during the early years of commercialisation. One other major outcome of our negotiations with the British Government has been that this sum of £11 million has been increased to a sum of £14 million at current prices. This programme of assured naval work, notably on Royal Fleet Auxiliaries, will be provided during the first 3 years of commercial operation. This additional amount of work was offered personally by the Prime Minister at the first meeting I held with her on 30 June.

In addition, during each of the first three years, work will also be available on smaller Ministry of Defence craft, such as royal maritime auxiliary services harbour craft, to an approximate annual value of between half a million and one million pounds. Such work on smaller craft will continue beyond the 3-year period and for the foreseeable future at a level to be agreed in due course between the Ministry of Defence and the Gibraltar Ship Repair Company. The

Gibraltar Commercial Yard, when fully run in will be able to tender on a basis of full equality with United Kingdom yards for further work on royal fleet auxiliaries.

As has previously been announced, the Dockyard land and assets for the new commercial enterprise will be transferred to the Gibraltar Government free of charge and the Gibraltar Government will then lease them to the Gibraltar Ship Repair Company.

To support the establishment of the new commercial yard Her Majesty's Government have offered to contribute a total of up to £28 million to meet initial costs of conversion, working capital, and operating losses (if any) in the first two years of commercial operation. Agreement on new commercial work practices is essential if the yard is to succeed. Funds for the project will only be committed after satisfactory assurances have been obtained from the workforce on new working practices. Such funds will however be available as soon as these assurances are obtained and prior to closure of the Naval Dockyard. The flow of funds thereafter will depend on the maintenance of these working practices. I will revert to the question of working practices later.

We have agreed with the British Government that a state of redundancy will be declared in September this year. This does not mean that Dockyard employees will be made redundant then. What it means is that, once that state of redundancy is declared, any employee of the Dockyard who wishes to leave his employment will, subject, of course, to the requirements of the efficient running of the Dockyard, be able to ask for redundancy payments and leave.

At a later time, individual redundancy notices will begin to issue. Throughout the period up to vesting day, the Commercial Ship Repair Company, through its commercial manager, will be identifying individual workers whom they will wish to re-employ immediately after the 31st December 1984, when they take over the management of the Dockyard from the Ministry of Defence. By the actual date of transfer from naval to commercial management all employees should have been declared redundant. They will receive full redundancy payments which will be made in accordance with schemes in operation in Gibraltar, the terms of which are comparable with those in the United Kingdom. Those employees identified for immediate employment in the commercial yard and who have not been taken on in the transition period beginning now and ending in December 1984, will be immediately re-employed. Others earmarked for employment will be taken on as the commercial enterprise develops.

During the time leading up to the establishment of a commercial yard, A & P Appledore International Limited will continue to be engaged on a consultancy basis funded by the Overseas Development Administration so that preparations for commercialisation are not interrupted. It is envisaged that discussions between Appledore, as commercial managers designate, and the workforce should start as soon as possible.

It is our belief, once we accept the inevitability of the closure, that, given good management and marketing, given the necessary up-to-date equipment, and given the full cooperation of the workforce, a commercial dockyard can succeed. The commercial operators predict that, by the middle of the first year, if the dockyard is running well, they will be employing a total of some 750 and, assuming that the necessary levels of productivity are achieved, thus attracting the work to Gibraltar, they envisage employing just under 1300 by the end of 1988, that is to say, they expect to employ, by that date, a workforce larger than that employed in the Naval Dockyard today.

Nobody can be certain that these targets will be achieved by the dates stated and there is no doubt that, initially at least, Gibraltar's economy will be adversely affected. It is with this in mind that our second objective in the negotiations was to try and achieve the conditions under which other economic activity might be generated in Gibraltar. The first essential requirement for commercial development is land and the only way in which this requirement can be met is by asking the Ministry of Defence to release areas suitable for such development.

As the House knows, the current arrangements are that the Ministry of Defence must hand over to the Gibraltar Government such land and property as are no longer required for Defence purposes. I am able to announce, first, that we have negotiated with the British Government a new agreement on the question of land currently held by the Ministry of Defence. This will be formally ratified shortly and full details will then be made public. The two main new features of the agreement are that reclaimed land will in future be treated in the same way as natural land and that new arrangements for payment for land and property transferred, which will be considerably more beneficial to us will apply in future.

I am sure the House will recognise the importance of the advance we have made in this vital area.

But the terms of an agreement, by themselves, are not enough. It is necessary also that practical steps be taken to obtain the land to which those terms will apply.

The House will be glad to learn that we have taken two major steps forward in this respect. Those concerned on the British Government side in the negotiations will be the first to agree that these negotiations were as difficult as those over the deferment of closure of the Dockyard. The immediate result is that the British Government have agreed that the sites along Queensway which are currently occupied by the NAAFI Headquarters, the PSA main stores (including the maritime section), the Army Watermanship Training Centre and the Queensway Club will be released to the Gibraltar Government as soon as the Gibraltar Government are ready to proceed with their development and alternative facilities can be provided elsewhere. The sites I have mentioned comprise the whole area between the Technical College to the north and the north gate of the dockyard to the south. The House will agree with me that this is a most valuable and extensive prime waterfront site.

Instructions have already been given to the Government officials concerned to give the utmost priority to the work that needs to be done to finalise draft schemes for the development of these areas and to invite potential developers to consider them and, if they so wish, to put forward schemes of their own. Our objective is to place the Government in a state of readiness to proceed at as early a date as possible so that the land can be transferred and the development commence.

In the meantime, the Ministry of Defence, in consultation as may be necessary with the Gibraltar Government - I will refer to this again in a moment - will be considering how and where the facilities at present available to them at the Queensway sites can be reprovided. The House will note that the release of these sites falls outside the normal pattern, which is that land and property are transferred from the Ministry of Defence when they are surplus to defence requirements. These sites and the buildings on them are not surplus to defence requirements. They are in active use and will need to be reprovided elsewhere before they can be vacated. The cost of reproviding them will be very substantial and will run into several millions of pounds. The House will be glad to learn that that cost will be borne by the British Government.

The House will also appreciate that the building industry will benefit considerably from the work that will be generated not only in the commercial development of the Queensway sites but also in the re-provisioning of the Ministry of Defence facilities. Indeed, it may very well be necessary, once the existing slack in the building industry has been taken up, to supplement the local capacity by bringing in firms from Britain.

I turn now to another site of very considerable development potential which the British Government has also agreed to hand over to the Gibraltar Government as a result of our negotiations. I refer to the Rosia Bay area. The agreement that has been reached is that, if there are development projects involving the area from Engineer Battery along the shore to Rosia Bay and west of Nuffield Pool, Her Majesty's Government would be prepared -

- (a) To hand over Rosia Mole and adjacent areas of the bay and to provide continuous access along the littoral west of Nuffield Pool when work on the relevant development is ready to proceed; and
- (b) To consider handing over the other areas of land between Engineer Battery and the Nuffield Pool.

Fortress headquarters and its associated facilities would be excluded from the areas which might be considered for handover.

The Instructions which have been given to officials to give top priority to the preparatory work connected with the Queensway sites extend to the Rosia Bay area as well.

In addition to the agreement to release the sites I have referred to, the British Government have undertaken to look further at their long term property requirements for essential defence purposes to see what other sites might in the future be released to the Gibraltar Government. This review, however, cannot be completed

until the Ministry of Defence have had sufficient time to assimilate fully into their planning the effects of the concentration of the naval base and the release of the Queensway and Rosia sites. The British Government have given us an assurance that they will not unduly delay the provision of alternative facilities so as not to frustrate any development of the Queensway and Rosia areas. We for our part are carrying out our own land use survey, which we expect to complete by October 1983.

We have made one more, very significant, step forward in relation to land. At the moment, the existing administrative machinery consists of three bodies. First of all, there is the Development and Planning Commission, a body which includes some representation of the services departments and of the PSA/DOE, but not at the highest level. Secondly, there is the Land Board, a body which deals with, and advises on, the allocation of land, if and when land becomes available, to the private sector. Thirdly, there is the Forward Planning Committee which deals with development programme.

It is our view that there should be superimposed upon these three bodies a new committee, at a higher level, which will deal with this all-important question of the future use of land in Gibraltar. Land in Gibraltar is not only a very scarce economic commodity, it is, apart from our entrepreneurial skills and our wits, as a people, the only economic commodity we have. It follows that we must make the best possible use of every inch of land in Gibraltar.

Let me straight away say at this point, as a digression, but an important one, that it must be made absolutely clear to all concerned that the Gibraltar Government places the greatest importance on the continuation of the services presence in Gibraltar, of the Naval Base, the Army presence and the presence of the Royal Air Force. I made the Gibraltar Government's position on these issues very clear when I proposed the motion which was passed in this House on 22 February this year.

There are two levels to this. The first is what one might describe as the policy or strategic level. That, I think, is already clearly understood. At least, our position on it was made plain in February. The other level is what one might almost call the personal level.

I think one can say, with some satisfaction, that, owing on the one hand, to the heads of services in Gibraltar, and to all those expatriates who work under them, and, on the other hand, if I may say so, to ourselves as well, services/civilian relationships in Gibraltar are excellent.

We are now entering a new era. On the one hand, and for reasons of major defence policy, the activity of the services in Gibraltar is contracting, notably in respect of the Naval Dockyard. This has happened before. I remember that, when the withdrawal of 224 Squadron was announced in the sixties, we all thought it was the beginning of the end. We survived that - as we survived other defence cuts over the years.

We in Gibraltar welcome the presence of the services - and not only for economic reasons but also because we too belong, in our own small way, to the Western Alliance.

It may be that the British Government's decision to transfer certain areas in Queensway and Rosia to the Gibraltar Government will cause concern and regret in services circles. We too regret this. But it cannot be possible for Britain to withdraw from the Dockyard, the main economic base of Gibraltar, which has served Britain so well and for so long and, at the same time, to hold on to prime areas of possible development which could offset at least some of the effects of Britain's withdrawal. We must be given a fair opportunity of developing our own economy.

It is our own very sincere hope that our position in these matters will be fully understood and appreciated by the heads of services and their respective staffs. We hope they will understand that Gibraltar is fighting for its survival - a British survival. We hope, accordingly, that services/civilian relationships will continue, as in the past, to be excellent. If the services are being called upon to make some sacrifices, so are we. The personnel of the services spend two or three years in Gibraltar, for us, it is our whole future that is at stake.

I referred just now to a new consultative body to be superimposed on our existing planning machinery and I said that this was a very significant step forward. The actual composition of the consultative body and its terms of reference have still to be worked out and agreed in detail. The broad intention, however, as I have already indicated, is that the two major land-holding authorities in Gibraltar, ie the Ministry of Defence and the Gibraltar Government, should work together, in the closest possible consultation and, hopefully, in the best spirit of mutual understanding of each other's needs, to ensure that every single inch of Gibraltar land is used to the greatest mutual benefit.

To expand slightly on this point, what the British and Gibraltar Governments have agreed on in principle, subject, as I say, to actual terms of reference, is that, for the first time, we will be in very close touch on every aspect of land use in Gibraltar. Our own land use survey, to which I referred earlier, will be matched, in this new consultative body, with Ministry of Defence land requirements. Our own local knowledge, town planning expertise and our plans for commercial development will be injected into the deliberations of the consultative committee. The service departments will thus be able, better than before, to understand our aims and objectives. We, for our part, will also be better able to understand their constraints and their requirements, together, I am certain, we shall achieve the true British compromise.

Sir, I referred earlier to the offer made by the British Government to contribute up to £28 million to meet the initial costs of conversion of the Dockyard and other costs and I said that the funds for the project will only be committed after satisfactory assurances have been obtained from the workforce on new working practices. The funds will begin to be made available as soon as these assurances have been obtained and before the Naval Dockyard closes. The conversion work can then begin. While it was essential for us to obtain a year's deferment of closure, it is also important that, once the decision to commercialise is made, the necessary steps to that end are taken with all possible speed so that the new enterprise can begin to operate and take its share of the ship-repair

market at the earliest possible date. The sooner this can be done, the sooner it will be possible to build up employment in the dockyard to the levels which Appledore have set as their target and which, as I said earlier, could eventually exceed the existing levels in the Naval Dockyard.

I am sure it will be recognised by all concerned that the success of the new commercial enterprise, the achievement, once more, of the full employment we have enjoyed in the past, and the re-establishment of our economy on a firm and secure footing depend, from now on, and as never before, on the Gibraltarian people as a whole and on the management and workforce of the future commercial yard in particular.

We in the Government have done all in our power to achieve the best starting off point for the future. The critical issue now is the agreement of the workforce to the sort of working practices without which the commercial venture will assuredly fail. Such failure would mean the collapse of the Gibraltar economy and would bring about the degrading situation of budgetary aid from the UK with all its political and social consequences. We would then have a much lower standard of living and of social services than we enjoy at present, our finances would be controlled at the whim of the British Government, we would be living on the charity of the British taxpayer and would forfeit the higher standard, which is now available and potentially within our grasp for the future. I cannot believe that any Gibraltarian would wish to see this happen.

I understand and respect, of course, the stand which has so far been taken by the trade unions here that, if commercialisation must happen, then it should only happen if there is no loss of jobs and no worsening of pay levels and existing conditions of service. With respect, that is unrealistic. Of course, if commercialisation proceeds, there must be changes. I would add, in parenthesis, that if commercialisation does not proceed, and in the knowledge that the Naval Dockyard is going to close anyway, the changes which would then ensue would be immeasurably worse, not only for the workers directly concerned but for the whole of Gibraltar.

This places a tremendous responsibility on the leaders of the trade unions in Gibraltar and on each individual worker. I urge those leaders and those individuals to reflect deeply on this matter. In a very real sense, the future of Gibraltar depends on their decision.

I said just now that changes are inevitable. The first of these will be growing unemployment, a disease already an epidemic in Europe and elsewhere. The Government has been carrying out, in consultation with the trade unions, and because of the unemployment which already exists in Gibraltar, a review of its employment policy in the civil service and more generally. This review will continue. Its objective is to achieve social justice and to ensure that the employment available is shared fairly. I am sure the Government can count on the full cooperation of the unions in this respect because the sole intention is to protect those members of our community who, temporarily at least, will be in difficulty.

The projections of future employment in a commercial dockyard are a matter of judgement on which the experts differ. Whether the most favourable projections can be achieved depends not merely on the market but on the efforts of management and workers.

The second inevitable change will be in work practices. This is a matter for discussion and agreement between the commercial operator and the workforce and its representatives. Though it is not a matter for the Government, we are of course ready, with our knowledge of local conditions and of our own people, to use our good offices to assist in the discussions if both sides wish us to do so.

I do not think the workforce need to be too apprehensive about the changes in work practices and conditions which must come if we are to succeed. These changes must be real enough to make us competitive but I am certain that they will not be so severe as to make them unacceptable. It is our wish that the best possible relations be established between Appledore and the workforce and I believe that the two sides will do everything in their power to understand each other's requirements and constraints. As I have said, we stand ready to assist if asked, both at political and civil service levels.

I would add just one more point on this subject. That is, that the sooner the discussions between Appledore as the future managers, and the workforce can begin, the better. Nothing can move until those discussions have been satisfactorily completed.

I have said that an enormous responsibility lies with management, trade unions and the workforce. But it lies also with all of us. There are two major aspects to this.

The first is a matter of responsibility for the Government. It is up to us as ministers, and to the civil service, to ensure that we achieve the greatest possible efficiency and sense of urgency in exploiting the opportunities for diversification of the economy which are now available to us and which we have the highest moral duty to pursue as a necessary complement to the efforts which the Dockyard workers are being called upon to make.

These opportunities consist, first, of the commercial development of the sites now made available and, secondly, of a much more intense effort in the promotion of tourism. The Government pledge themselves to give these the utmost attention and priority.

The second major responsibility for the defence and strengthening of the economy lies with each individual Gibraltarian.

In December, 1982, I welcomed the partial opening of the frontier, for humanitarian reasons, as a step in the right direction. At that time the British Foreign Secretary and the Spanish Foreign Minister had agreed to meet in the spring with a view to the implementation of the Lisbon Agreement. It was the Gibraltar Government's view that the economic consequences of the restrictive and discriminatory nature of the partial opening of the frontier would not be serious during the short period before this fourth Spanish commitment to honour the Lisbon Agreement.

It became clear, following the Spanish Foreign Minister's talks in London on 17 and 18 March, that the prospects of the implementation of the Lisbon Agreement had receded further than ever. A few days later, on 22 March, in the light of the new situation, I made a statement in the House of Assembly in which I advised against the expenditure of large amount of money in Spain. Though it seemed at first as if it made people think more about the matter, that advice, by and large, has remained unheeded. The extent and frequency of visits to Spain by Gibraltarians continue to be excessive and severely damaging.

The public is entitled to know the consequences of not taking that advice. These are estimated to be (in a full year):

| | | |
|-------------------------------------|---|------------|
| Loss in national income | - | £5 million |
| Loss to Government revenues | - | £2 million |
| Potential loss of job opportunities | - | 300 |

As I said in my statement on 22 March, this is a free society. The people of Gibraltar are free to undermine their own economy if they so wish.

The Government, in consultation with the other political parties in the House of Assembly, the Chamber of Commerce and the Gibraltar Trades Council, have carefully examined possible counter-measures. The Government have concluded, hitherto, that no measures should be taken which might be seen as curtailing the liberty of the individual or imposing unpleasant restrictions. The Government hope that their previous advice will be heeded and that it will not become necessary to take unpalatable decisions.

The real remedy lies in the hands of the Gibraltar individual. I repeat the advice which I gave on 22 March. I repeat it most strongly. Short-term personal benefit will inevitably lead to longer-term economic difficulty for the community as a whole. I am not overstating the problem when I say that it has now become a matter of patriotism.

I must make particular mention, in this context, of the special responsibility which lies with Gibraltar's trading community. I appreciate and understand their difficulties, but if the consumer at large, which of course includes traders themselves, are to show restraint in spending in Spain, the trading community as a whole has to take this into account in their pricing policies. Otherwise, there will result the most vicious spiral.

Sir, I have spoken at some length but it seemed to me that the occasion called for this. I would not, however, wish sight of the wood to be lost for the trees. I want therefore to summarise briefly the main elements in the agreement we have reached with the British Government and the principal points I have made about the way in which, as I see it, all of us in Gibraltar should face up to the immediate future.

I summarise as follows:

1. We have achieved a year's postponement of the closure of the Naval Dockyard. But that closure is inevitable and no further postponement is possible.
2. The amount of naval work to be made available in the first 3 years will be £14 million on royal fleet auxiliaries with an additional amount of between half a million and a million per annum on an on-going basis.
3. The Gibraltar yard, when ready, will be able to tender for naval work in the future on the same terms as UK yards.
4. The dockyard land and assets required for the commercial yard will be handed over to the Gibraltar Government free of charge.
5. Her Majesty's Government will contribute a total of up to £28 million to meet initial costs of conversion and other costs.
6. Agreement between the operator and the workforce on new work practices in order to achieve commercial competitiveness is essential.
7. The funds allotted to the project will only become available when agreement on work practices, which should be reached as soon as possible, has been achieved.
8. A state of redundancy will be declared in September. Voluntary redundancy will be possible in appropriate cases. Individual redundancy notices will be issued during the subsequent period as appropriate.
9. Redundancy payments will be comparable with those in the UK.
10. Management of the Dockyard until 31 December 1984 will continue under the Ministry of Defence. There will then be a clean break and the commercial operator will then take over.
11. The commercial operator will, during the transition period, and subsequently, select those workers who will be employed in the commercial yard.
12. We have negotiated with the British Government a new agreement on the question of land surplus to defence requirements.
13. The British Government have agreed to transfer prime development areas at Queensway and Rosia.
14. The reprovisioning costs of the facilities in these areas, amounting to several millions, will be borne by the British Government.

15. The Government will give utmost priority to work connected with the development of these areas and will pay particular attention to the development of tourism.
16. A new MOD/Gibraltar Government joint consultative body will be set up to deal with policy issues relating to land.
17. The Gibraltar Government look forward to the continuation of the excellent relationship which exists between the services and the civilian community.
18. Everyone in Gibraltar - the workforce, the trading community, individual Gibraltarians, the commercial operator, the civil service - is called on to make a very special effort to preserve and strengthen the economy.
19. Excessive expenditure in Spain has now become a matter of patriotism.
20. Employment policy is being reviewed in consultation with the unions.

Sir, this House is concerned, in debating the motion I have proposed, with one of the most serious and important matters it has ever been called upon to consider. I am confident that, in the interests of Gibraltar as a whole, all Hon members will reflect most carefully on what I have had to say. I beg to move.

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

HON P J ISOLA:

The Hon Chief Minister referred to an agreement in his summary between the Gibraltar Government and Her Majesty's Government and he has also told us that the Prime Minister or somebody would be making a statement today at 4.30 in the House of Commons. Does the Chief Minister consider that this is the process of fulfillment of a motion that was amended on the 22nd February when he said that full consultations should take place between all the political parties represented in the House of Assembly before a final decision was made on the commercialisation of the Dockyard? Is he not in fact presenting us with a fait accompli? An agreement has been made, he has got a majority, and no consultations have taken place between the political parties represented in the House as resolved in that motion.

HON CHIEF MINISTER:

I think the answer to that is quite simple, Mr Speaker. I have not signed an agreement with the British Government on the terms that I have spoken, I have made the reservation that I am subject to the House accepting the terms of the agreement and that is why I am moving a motion in the House.

HON P J ISOLA:

I won't pursue that. I will say something about that in my address, Mr Speaker, but it seems to me a very odd way of proceeding. The Hon Chief Minister has summarised the amount of aid or what is involved. Am I right in thinking that under the £28m he has referred to, which the British Government is going to put into the Dockyard and which was referred to by the Prime Minister about three weeks ago in an answer she gave in the House of Commons, were included £11m of naval work. He has now mentioned £28m and £14m, am I to understand that naval work now goes up from £11m to £14m or is it £26m in which there is £11m of naval work and there is also an additional £14m?

HON CHIEF MINISTER:

No, there were two figures in the statement or in the understanding. £28m was for the carrying out of repairs, on the starting off, getting it into practice and bearing the losses of the two first years of operation. The £11m was promised naval work irrespective of the £28m for the initial three years. That figure has now been upped by £3m, at present day prices, which was not indicated in the original £11m; up to £14m worth of work during the first three years of the operation.

HON P J ISOLA:

So that as I see the position in financial terms, as far as the Naval Dockyard is concerned, what has been achieved since the announcement and how it is proposed to be done has been an extra £3m of public money from the United Kingdom going into naval repair work and deferment for a year, is that correct?

HON CHIEF MINISTER:

In respect of the Dockyard alone: £3m more of work, apart from the small craft, and one full year of full naval operations during 1984. This on its own we would not have accepted as justifying our supporting commercialisation, and that is why we drew a broader outline of other areas on which we needed to support the economy and demanded the price that we have been able to obtain.

HON P J ISOLA:

I am sorry to ask so many questions, it is just a question of clarification. The other point is, as far as development aid is concerned, that there has been no increase in the figure apart from the handing over of land that the Hon and Learned Chief Minister has referred to, is that correct?

HON CHIEF MINISTER:

Development aid has been oblivious to this. It was originally presented by the British Government as being part of what they

called 'the Dockyard package'. We said that the £13m of development aid in the present programme had nothing whatever to do with the Dockyard, that that had been committed - and they had taken long enough to give us that money - before the question of the closure of the Dockyard ever arose and therefore one thing had really nothing to do with the other. The £13m of development aid is something which was given to us in respect of the support and sustain policy on the Spanish restrictions.

HON P J ISOLA:

But then equally, I suppose, the handing over of land in Queensway and so forth has nothing to do with the Dockyard's commercialisation either?

HON CHIEF MINISTER:

It hasn't got anything to do with commercialisation but it has to us made it possible to accept the inevitable, which was commercialisation, because it was the granting of prime sites for development, the economic activity of which will make up for the difference between the present spending and the possible future limited spending in commercial yards in certain circumstances. That is why it is all one package. We would not have accepted one without the other. The £3m were offered at the first meeting with the Prime Minister but we were far from agreement in other areas at that meeting. This was the subject of further consultations, namely handing over, free, of all the littorals from the Dockyard to the Camber, which is being used now, and the British Government re-provisioning elsewhere to allow that land to be developed for the benefit of Gibraltar.

HON P J ISOLA:

Just one last question, if I may. Could I ask the Hon and Learned Chief Minister, at what time did the Government form the view that the closure of the Naval Dockyard was inevitable and irreversible and that there was no future in making an attempt at an appeal to Parliament with possibly the same chance of success as in the British Nationality campaign?

HON CHIEF MINISTER:

It is terribly difficult to put an exact date. This has been a growing process. Some of us had the feeling that it was inevitable and I think the letters that have been answered by Ministers to individual MPs who have written and so on make it clear. The fact is that they have no more need for it, as they said, and it was a matter of judgement whether they would close it or not. Our judgement is that they were going to close it anyhow and therefore we wanted to make the best deal possible and give the essence of the requests contained in the memorandum a period of transition to be able to absorb the shock and also obtain other aid in respect of land and so on, that would make it possible to soften the blow that would have to come anyhow.

HON A J HAYNES:

Does the Chief Minister consider that no other negotiating body would have been able to extract

MR SPEAKER:

No, I will not allow that question. You are not clarifying anything on the statement.

HON J BOSSANO:

Mr Speaker, I don't want to clarify anything in the statement, I want to speak on the motion.

MR SPEAKER:

Well, that will come in due course.

HON J BOSSANO:

But I want to do it now.

MR SPEAKER:

No, you cannot.

HON J BOSSANO:

Why not?

MR SPEAKER:

I beg your pardon, perhaps I will explain. A wish had been expressed by the Opposition, which I thought you concurred with, that they needed time to consider the Chief Minister's address on the motion before they could reply. If you still wish to take the opportunity now, I beg your pardon, there is no reason why you should not but I would have felt that you wanted time to consider and study the statement before.

HON CHIEF MINISTER:

I didn't want to be accused of wanting to bulldoze the motion.

HON J BOSSANO:

Is the Hon Member saying that the motion in fact, under the agreement or whatever it is he has got with the British Government, will not be implemented unless he has a unanimous vote in the House?

HON CHIEF MINISTER:

No, no.

HON J BOSSANO:

No, he is not saying that. So then it does not make any difference if I vote against now, or in a month's time. He will still do it, am I right?

HON CHIEF MINISTER:

We are not taking the vote today anyhow because fourteen Members may wish to take part. I don't think we would finish even if we stayed overnight. I did not want to be accused of proposing a motion of a serious nature on which Members might say that they were not ready. If the Hon Member is ready, perhaps he was ready before listening to me but that does not matter,...

HON J BOSSANO:

Mr Speaker, I was ready

MR SPEAKER:

Perhaps I will interrupt you at this stage to ask whether there are any other questions for the purpose of clarification that the Hon Members from the Opposition wish to ask? There are not any questions I see.

HON J BOSSANO:

Let me say, Mr Speaker, that the motion before the House is: "That this House resolves that the offer by Her Majesty's Government to provide assistance for the establishment of a ship repair yard in place of the Naval Dockyard at Gibraltar be accepted and that the necessary measures to establish such a ship repair yard be taken accordingly", and that that offer has been known to this House for a considerable amount of time. The offer is not what the motion is, which is what I am going to be voting on, obviously I am not going to be voting on Rosia or

HON CHIEF MINISTER:

No, let us get this thing right in order that we do not have unnecessary crossing of words. Let us get this thing right. By the nature of the resolution of the 22nd February I have to bring the motion in the terms on which I have done it but I would not have brought the motion if I had not had the other things tied to the motion. I respect the Hon Member's views on this matter but I want to make it quite clear that he cannot, he may if he wants to, but it would be idle to try and limit himself to the wording of the motion and not deal with the rest, because without the package I would not have brought the motion. So long as that is clear it does not matter.

HON J BOSSANO:

Perhaps the Hon and Learned Member will clear one thing for me. It does not follow from that, I take it, that if commercialisation does not in fact materialise he won't get Rosia or the NAAFI or Queensway, does it?

HON CHIEF MINISTER:

I think it follows, yes it follows, it is a package.

HON J BOSSANO:

Well, certainly, Mr Speaker, that means that this House is voting on an offer where the right to our land is now conditioned on whether the workers in the Dockyard accept totally unacceptable work practices which haven't even been spelt out to them. That means that the workers in the Dockyard, Mr Speaker, are having a pistol put to their heads and not only are they being threatened with unemployment and economic ruin for Gibraltar, but they are being told that the right of the Gibraltarians to the Queensway seafront depends on them accepting AppleGore. Well, then I think, Mr Speaker, that if nothing else was required to convince me to vote against this motion, that in itself would be sufficient. Let me say that I did not intend to speak on that part of the statement made by the Hon and Learned the Chief Minister because, as far as I was concerned, the fact that that area has been handed over to the Gibraltar Government is not something on which I would quarrel. Although I must question whether it reflects such great generosity on the part of the British Government, since I already believe that the whole of Gibraltar belongs to us, Mr Speaker. But, I see that it is in any case conditioned to alternative sites being found for the facilities that are there and users being found for the places that are left vacant. I think it is worthy of note that the Command Education Centre, which was handed a considerable time ago to the Government of Gibraltar, still hasn't found a user. So that, in fact, we may be handed white elephants to add to the long list of white elephants we have inherited over the past. Nevertheless the principle that the land should be handed to the people of Gibraltar, to whom it really belongs, is one that I would not wish to quarrel with. So I will concentrate on what is really important. Is there anything in this,

Mr Speaker, that changes the assessment that the House, the workers in the Dockyard and the people of Gibraltar have got to make as to whether, because the British Government has decided that they no longer have a further use for their naval yard, it necessarily follows that we have to swallow a private ship repair yard which they have been trying to ram down our throats for two years, because they sweeten the pill with enough sugar to make it go down our gullets more easily. Well, I can tell the House, Mr Speaker, that, as far as the GSLP is concerned, we will oppose the commercialisation of the Dockyard today as we did initially and we see nothing in the terms that the Government of Gibraltar has brought back to make us think that its chances of success are any greater now than they were when PEIDA studied the matter, when Appledore produced its proposals, when Coopers and Lybrand and A R Belch Associates produced their report or when Mr Michael Kingsley, whose report was financed by the taxpayer of Gibraltar, produced his. Let me tell the House, Mr Speaker, that I was shown that report today at one o'clock and I was told that I could not quote from it and that I could not make any part public because it was top secret.

The report belongs to the people of Gibraltar who paid for it. I was told that the reasons for not being able to quote from it, Mr Speaker, were: (a) that it was commercial in confidence - and I read it through and there is no reference to any firm of any declaration of interest of any firm that could be damaged by the publication of that report, in my judgement, and if there is I would like to be shown where it is - (b) that it contained material which could be detrimental to our interests because it might be made use of by Spain. As far as I know, I have been told in the street this morning that in Spain they already knew yesterday what I have just found out ten minutes ago here. So I do not think, Mr Speaker, that that is true either and I think that these red herrings are brought out whenever information is being kept under wrap. I don't really think that it is fair to the public of Gibraltar to expect this House of Assembly to have to debate a matter if we cannot quote reports which have been made available for us. If I say that I am voting against this motion because of something that the consultant, which we paid £20,000 for, has said, I cannot say it because it is confidential. So it is my word against anybody else's word and I don't think the fact that I am here in this House of Assembly at a maximum until February, well before the Dockyard closes and well before the commercial Dockyard starts, gives me a right to privileged information and to decide. I am convinced that any person reading that report will come to the conclusion that in fact the Chief Minister, simply on the basis of that report, should have gone back to the British Government and said: "We have got a report now that says that this will not work". Perhaps he can confirm that the report says that it doesn't work, or does one break confidentiality by saying just that? The report does say that, Mr Speaker. In fact I can tell the Member that having looked at the report this afternoon, at one o'clock as I said, and after reading the report's gloomy analysis of the prospects of success of Appledore, I can tell the Member and I can tell the House that there is a fundamental error in the report which means that the position is even gloomier than the report says it is. It is an error which should have been picked up. There is a very important figure in that report from which a lot of other figures flow and that figure happens to be incorrect and the conclusion, which a very gloomy conclusion, is in

fact an over-optimistic one if one takes the accurate figure. Having said that, Mr Speaker, I can come back to the projections that Appledore made. The figure of £28m, Mr Speaker, is not new money that the British Government has suddenly given. It is, in fact, the figure that Appledore said was required, £28m. The Hon and Learned Member is mistaken. The £11m was never included in the £28m. The £11m was over and above the £28m.

HON CHIEF MINISTER:

I never said anything.

HON J BOSSANO:

No, the Hon and Learned Leader of the Opposition said that.

HON P J ISOLA:

I asked about it.

HON J BOSSANO:

Asked about it, yes. Well, I can tell the Hon Member it was never included. I can tell the Hon Member that, in fact, when the Chief Minister said today that they had put their position very forcefully to the British Government in that the £13m given under ODA had nothing to do with the Dockyard, I was glad to hear him say so because when in fact he defended the £13m last December, he defended it precisely on the grounds, and he made a statement in this House and said so on television, that it had to be taken against the background that we were getting £40m or up to £40m for the Dockyard's commercialisation. Well, that means that if the £40m had not been there the £13m was not enough or does it not mean that?

HON CHIEF MINISTER:

No, the Hon Member is so clever, he half-quotes and mis-quotes. What I said was that that was an indication of their help, that against that background they were giving the money that would come into the Dockyard. What I would not accept and what I made clear, that is why there is no mention of it in the statement or in the package, is that it should form part of a package in respect of the Dockyard when it had nothing to do with it.

HON J BOSSANO:

I am grateful for that clarification. It means, Mr Speaker, that although we may lose Queensway and Rosia he will not lose the £13m.

HON CHIEF MINISTER:

They are virtually spent now.

HON J BOSSANO:

I am glad to hear that. Well, then, Mr Speaker, we have a situation where, in December last year, the Hon Member came back from UK and announced that, on top of the £4m the Gibraltar Government had already been given, there was a promise of a further £9m and that this £13m had to be taken against the background of up to £40m available for commercialisation. In fact instead of being up to £40m we now have £41m or £42m.

HON CHIEF MINISTER:

If the Hon Member would give way. I am sorry but it will help. There is work which is not quantified here regarding money that has to be spent by the Ministry of Defence to reprovide the Naval Base in another place. That is not included in this figure.

HON J BOSSANO:

The reprovioning costs for areas that are released within the Dockyard, I take it, Mr Speaker, because it mentions separately the others. Well, that, in fact I think, was never included in the original provisions either. It was something that was left in the air. Coming to the real point, Mr Speaker, if this House is to resolve to accept this offer of assistance in setting up a commercial Dockyard in Gibraltar, should it be sufficient reason for the House, the fact that the Chief Minister has had to go to the highest level in UK, to the Prime Minister herself, to get that level of assistance, even if we ourselves are not convinced that the proposition will work. It seems to me that the Chief Minister has done nothing to persuade the House that commercialisation will work other than to say what Appledore said a year ago, that if everybody put his nose to the grindstone it could work. I think we need to say that the question of the rates of pay and the question of the level of productivity increases mentioned by all the consultants, are things that will need to be put to the work force. I think it is most unfair, Mr Speaker, the way this matter is being put. I am talking here as a politician not as a representative of the Trade Union Movement and the Trade Union Movement itself, in consultation with its members, who are the ones directly affected, will have to make up their own minds how to react to this proposal. I can see little here to produce any dramatic change of attitudes and I can tell the House that, as far as I am concerned, I find it totally incompatible with fundamental principles of trade unionism that we should have a situation where not only is the £28m with strings attached, which as a trade unionist I would find objectionable, but that, in fact, the release of land to the Government of Gibraltar has got the same strings attached. That is, if the unions refuse to cooperate with Appledore then the Government of Gibraltar will not get the land from the MOD. That is totally unacceptable politically, Mr Speaker. It is also unacceptable, I would have thought, to any body that has got a trade union background that Appledore should be given £28m provided they can deliver the goods in terms of changed work practices and really what do we have here? I will tell you what we have, Mr Speaker. We have a situation here, which I was told

once the unions wanted to do in this House, as taking a leaf out of a Spanish book. It seems to me the British Government is taking a leaf out of a Spanish book. The Spaniards often used to say, prior and post the Lisbon Agreement, that their understanding of the situation was that removal of restrictions would be conditional on progress in the negotiations. Here we have, that the release of the £28m will be conditional on progress in the negotiations between the unions and Appledore and that, in fact, even at the end of the day they will still be holding back, as it were, a retention fee so that if the agreements are there and are not complied with, I am quoting from the Hon and Learned Members statement, then the rest of the money may not be forthcoming. So that it will have to be not only the agreement to new work practices but the maintenance of new work practices. I read a report at one o'clock and it is nothing new, I knew about it before. Presumably, Mr Speaker, without breaking the oath of secrecy I had to take at one o'clock to read that report, for which I paid with my taxes, presumably I am allowed to quote where the report agrees with me because then I can say that I am quoting myself. So let me say, Mr Speaker, that it is well known that when one tries to introduce drastic changes irrespective of what arrangements may be signed, the people on the shop floor may simply back the horse and refuse to deliver. It happened in British Leyland, it happened in British Steel, it happened in many ship repair and many steel industries where dramatic changes have been sought. Therefore the situation is that, presumably, by making the behaviour of a small group of workers the link string upon which everything else depends, it must be thought that the pressure from the rest of the community will be so great on those people that those people will have to accept all the changes that nobody else is being required to accept, only the 300 or 400 in the Dockyard. I said before, Mr Speaker, that I was convinced that this would not work. I will devote the time and attention that the statement merits, Mr Speaker, in due course but I think we ought to get rid of all the extraneous matters for the purpose of this debate, like the frontier and patriotism and so on. I do read things very thoroughly and I have read every report that every consultant has written. Although, as far as I can see we might have saved a lot of money and consigned them all to the waste paper basket because this was a fait accompli before the whole thing started and it has not moved an inch. All that we are getting is window dressing. The paper in which the package is wrapped has been made more attractive. We have put a little bit of tinsel, we have put in a little bit of Christmas packaging but the package is the same package and the package is unacceptable to me politically and should be unacceptable to the people of Gibraltar and unacceptable to the leaders of people of Gibraltar because we are being made to carry a can for something that is not of our own making. The British Government has had Gibraltar for nothing for years, Mr Speaker. We should not fall over backwards, overwhelmed by their generosity in giving us our Dockyard back free of charge. We should be questioning why they have had it for 217 years free of charge. We shouldn't be saying to ourselves: "How wonderful they are, they are going to move their naval base from one end of the Rock to the other and they are going to pay for the move. They are not charging us for the move, fantastic". This is totally unacceptable, Mr Speaker, politically. I want to make it quite clear because I

believe that it is important in an issue as clearcut as this, to separate one's political objections and one's role in another field. As far as I am concerned, as a trade unionist, my advice to the Trade Union Movement must be that this thing must be put fairly and squarely, without window dressing one way or the other, in front of the people concerned. That has been my view all along, to let those people decide. I believe that it would be totally wrong to hold a pistol to these peoples heads and say to them: "Look, on the one hand you have got this which implies a lot of things in the future and which has got a big unknown question mark. So it may succeed if you work very hard, if the ship repair market improves, if your productivity is ten times greater than those in Lisnave and all the rest of it. On the other hand there is total chaos, mass unemployment, you will be out of work, martial law in Gibraltar, the Dockyard closed, no alternative, they keep Rosia, they keep Queensway". Well, Mr Speaker, what sort of choice is that? We might as well have gone to the UK and said: "Tell us what it is we are supposed to ask for and we will sign for it?". I think, Mr Speaker, that the Hon and Learned Chief Minister has obviously tried to get as good a package as he could. I do not dispute that. I do not for one moment impute on him any motives other than to try the best that he thinks he can get for Gibraltar but I am telling him that, as far as I am concerned, the best that he has got is nowhere near good enough and politically he will not have my support.

MR SPEAKER:

Well, I would like to hear the feelings of the Hon the Leader of the Opposition.

HON P J ISOLA:

As I explained to you, Mr Speaker, it has been a long and detailed statement and we certainly would like to look at it very coldly, analyse it and then give our views and I think that we would prefer to recess.

MR SPEAKER:

It has been suggested that we should recess until tomorrow afternoon at 2.30. Would that be acceptable?

HON CHIEF MINISTER:

I suggest that, if it is possible, I would like it a little earlier and have an hour in the morning. I think, having regard to the benefit that the Hon Leader of the Opposition has had not only of hearing my statement but also the statement of the leader of the GSLP, I think maybe they need less time to consider it. Anyhow my preference would be for 12 o'clock but if it is absolutely necessary I am prepared to do it at 2.30 pm.

HON P J ISOLA:

I would like to start, Mr Speaker, at 3 pm. Let me tell you that the speech from my Hon Friend, Mr Bossano, was entirely predictable as almost, I would say, the statement of the Hon and Learned Chief Minister. However, we have considered a lot of reports, he has given a detailed statement and we would like to make a detailed reply, not purely a motion.

MR SPEAKER:

And what are you suggesting?

HON P J ISOLA:

3 o'clock tomorrow.

MR SPEAKER:

3 o'clock tomorrow afternoon.

HON CHIEF MINISTER:

2.30 pm.

MR SPEAKER:

Would 2.30 pm be acceptable?

HON P J ISOLA:

No, Mr Speaker, why should it be 2.30, why not 3 o'clock. The Hon and Learned

MR SPEAKER:

Order, you will sit down. Now you can stand up. I am asking you a simple question. Would 2.30 be acceptable?

HON P J ISOLA:

No, Mr Speaker, I would like 3 o'clock. Let me say one other thing, we would like to consider the full text of the statement that the Prime Minister, or whatever British Minister, has made today at 4.30. We would certainly like to see and examine that one because the Hon and Learned Chief Minister has given the Gibraltar Government's statement and he has given facts and so forth in support of the Gibraltar Government's statement. We are very interested in reading what the British Government has

said publicly in the House of Commons and in the House of Lords. I don't know whether that will be available to Members of this House by 2.30 tomorrow or 3 o'clock.

HON CHIEF MINISTER:

I hope it will be available either tonight or first thing tomorrow morning. The statement is, of course, considerably shorter because I have gone into the whole background. I have seen the statement. It only summarises what I have said but I am sure that we will have a copy of it first thing tomorrow morning together with the reactions in Parliament, perhaps.

HON P J ISOLA:

That is what I was thinking of. The statement and the reactions in Parliament. We are very interested in actually seeing that, Mr Speaker. The Hon and Learned Chief Minister has taken approximately five weeks, Mr Speaker, to increase the British Government offer by £3m. I think it is not unreasonable to give the Opposition an extra half hour.

HON CHIEF MINISTER:

In view of that impertinent remark I do not agree.

MR SPEAKER:

Order, order. In fairness to all that has been said and in the light of the fact that the Opposition do agree that 2.30 would be acceptable I do not feel that half an hour is going to make any difference whatsoever so we will now recess until tomorrow afternoon at 3 o'clock.

The House recessed at 6.15 pm.

THURSDAY THE 26TH JULY, 1983

The House resumed at 3.05 pm.

MR SPEAKER:

I will remind the House that we are now on the debate on the motion moved by the Hon and Learned Chief Minister. I have proposed the motion and Mr Bossano has already spoken to it. Before I go any further, I feel I should explain that yesterday when we recessed I did say that we would recess until 3 o'clock, believe me, it was a slip of the tongue. I should have said 2.30 as Hon Members will recall that I said at the time that half an hour would not make any difference to the studying of reports.

HON CHIEF MINISTER:

If I may, I want to clarify two matters, one which is clarification of a question I was asked yesterday and another one which I think will help Hon Members in appreciating the situation. In the first place, I was asked by the Leader of the Opposition, yesterday, at what stage we had come to the conclusion that the Dockyard would close anyhow. I spoke to the fact that it had been seen coming as a result of Baroness Young's letters and so on. I would like to mention something I should have mentioned yesterday that, of course, the final coup to the matter was during my first meeting with the Prime Minister. That was the first thing I asked for and she said: "It is out of the question". That was at the highest level, directly, on my first meeting with the Prime Minister. There are two other points which are important. Hon Members may already have had the statement made by Mr Stewart and they will see that there is a paragraph there which unfortunately was omitted from my statement due to the hurry in which it was prepared. After all, we finished with the Prime Minister after 5 pm and the statement had to be available within 24 hours. Part of it was finished on the plane. The British Government's undertaking, given generally on this matter for the record, which should have been in my statement reads as follows: 'If there are any future difficulties for the Gibraltar economy Her Majesty's Government would be prepared, in line with the policy of supporting Gibraltar during the present border restrictions, to look at the whole economic and budgetary situation with a view to consider if whether and, if so, what further measures of support might be necessary or justifiable in the circumstances of the time'. That is the end of the paragraph. We considered this satisfactory because it was raised by me with the Prime Minister at the meeting held the day before yesterday. The other point I have to clarify which came up yesterday and which the Hon Mr Bossano may have misunderstood, with justification, but which I ought to clarify, is that the early transfer of the Queensway and Rosia sites is not conditional on acceptance of commercialisation. It is being offered to mitigate the effects of closure of the Dockyard, in recognition of the need to offer the economy a wider base to develop.

HON P J ISOLA:

Mr Speaker, I am sure the Hon and Learned Chief Minister will draw great comfort from your words about the mistake made yesterday but I don't know whether he will draw comfort from what we have to say. Mr Speaker, I did say yesterday

MR SPEAKER:

May I say that whether the Chief Minister draws comfort or not from the words that I said is not relevant in any manner or form. What is relevant is to inform the House of what my intentions were and nothing else.

HON A J CANEPA:

Mr Speaker, I don't know whether this speaker system is working as it usually is but we are finding it difficult to hear.

MR SPEAKER:

The Hon and Learned Leader of the Opposition has started his contribution by saying that perhaps the Chief Minister has drawn comfort from what I had to say about the recess yesterday afternoon but perhaps the Learned Chief Minister will not draw comfort from what he has to say now. By way of explanation, I have said what my intentions were yesterday afternoon. It was not said in order to give comfort to anyone but to state what my intentions were.

HON P J ISOLA:

That was only meant, Mr Speaker, by way of comment not as a contribution. I am just checking up, Mr Speaker, on what the Chief Minister has just said in answer to what my Hon Friend Mr Bossano said yesterday. I was just checking whether that is what he said yesterday, I don't know. If it isn't, Mr Speaker, let me say straight away, as you heard yesterday when I was asking that the House should recess until today, I did say that we in the Opposition wanted to analyse very closely what the Hon and Learned Chief Minister had said and we also wanted to see what was said in London and compare notes. Obviously this is a normal precaution we would take on a motion and on a subject so grave and so important for the future of Gibraltar. We did not fail to pick up the passage that the Hon and Learned Chief Minister has mentioned. We are frankly amazed, Mr Speaker, that if that was part of the agreement which the Chief Minister came to with the British Government, that it doesn't appear in the statement, in the very detailed statement, that he gave the House yesterday. He said that he would be enlarging on what was being said in London, in order to give the House much more detail about it because, after all, in London they were only interested in the outlines. It is amazing to us that such an important and significant statement by a British Minister should not have been reported in this House yesterday. It is quite amazing unless the Chief Minister didn't know it was going to be made. I don't know.

HON CHIEF MINISTER:

I am sorry, if the Hon Member will give way. It is a 27 page statement, the one I made. The last pages were being typed whilst I was in the House and it was an omission, a technical omission. I was reading and I was concentrating on the statement. It became obvious today. It is not that I didn't know, of course I knew. It is obvious. The point is that somehow or other it was omitted and I think I ought to say so now.

HON P J ISOLA:

Mr Speaker, after I left yesterday I was asked by the Broadcasting Service whether I would give an interview on our reactions to the statement and obviously, for the same reasons that I didn't wish to give our reaction here, I wasn't going to give a reaction to the Broadcasting Services. I explained that we would be giving our views to the House and then, of course, we would be free to comment. I hope that is understood and appreciated. Mr Speaker, the subject before the House is a subject of profound significance to Gibraltar and its economy. We on this side of the House are amazed that a decision of such importance to the Gibraltar economy and to the future of Gibraltar should have been taken by the Gibraltar Government on its own and without any consultations with the political parties in the House in respect of which consultations we have undertakings from the Chief Minister and the Government. I think it is perhaps helpful if I recall or I remind Members of the House of the attitude of my party to the question of the closure of the Naval Dockyard. We have consistently advocated a policy of unity on the part of Gibraltar as to its attitude to this important matter. We have always said this because we feared that unless there was a unified approach we would have a situation which I am sorry and very sad to say we are going to face today. A situation of a divided Gibraltar. That is the worst possible situation for Gibraltar to be in. It has been brought about, Mr Speaker, by the desires, if I may say so, or the conviction of the Gibraltar Government that only they should decide the future of Gibraltar as far as the Dockyard is concerned. That, in our view, has been totally wrong. Mr Speaker, it is now just over two years since the Defence White Paper was issued, in June 1981. We will recall that when it was issued there was, of course, consternation and dismay in Gibraltar even though the White Paper itself did not say that the Gibraltar Dockyard would close. I remember writing a letter to the Governor on June 29th, 1981, just over two years ago, in which I expressed the fears of my party as to the possible effect on the economy of the Defence White Paper. I ended up by saying: "If it becomes necessary to consider alternative ways of fulfilling the British Government's obligation to support the economy of Gibraltar, it is my firm view and request that the Opposition should be consulted very closely on how the British Government would propose to discharge that obligation. You will appreciate that any alternative way of fulfilling the British Government's obligation to support the economy of Gibraltar would require some very in-depth study and decisions likely to have profound effects on the future of Gibraltar and its economy and indeed on the way of life of its people. I hope I can be reassured by you on these matters and on my interpretation of the official policy document.

As this matter is, of course, of very great public interest, I am forwarding a copy of this letter to the Chief Minister and to the press media". Between June, July and August, I had a lot of correspondence with His Excellency the Governor in which I did not get the reassurance that we wanted from the British Government. This was, that in the same way as in foreign affairs where the whole of Gibraltar is concerned and where the future of Gibraltar is concerned the Opposition is consulted, on the future of the Dockyard which goes to the whole base of the economy of Gibraltar and affects its whole future, the Opposition should equally be consulted. The most we achieved, Mr Speaker, was the institution of a Committee chaired by the Governor and composed of Members of the Opposition, Ministers, Government Officials, officials from the Ministry of Defence and representatives from the Trades Council, Banks, the Chamber of Commerce and the Shipping Association. Very early in the life of that Committee Mr Bossano thought, for reasons best known to himself, that he could not any longer participate in that Committee and left it. Once he had left it all interest was apparently lost in the Committee and after about one more meeting the Committee was wound up. I do not know whether that was the Governor at work or the Hon and Learned Chief Minister but certainly, as far as we were concerned, we were ready and willing to attend. I say this, Mr Speaker, because it is well to remember the number of occasions that we on this side of the House have appealed for a united approach. We did it immediately after November 1981, when the British Government announced the closure of the Naval Dockyard. At that time with our usual uninhibited enthusiasm, if I can put it that way, I did write a number of letters to Members of Parliament complaining, strangely enough, Mr Speaker, about the same thing I am now complaining of as regards the Chief Minister. We complained about the failure of the British Government to consult the Chief Minister and the Gibraltar Government before announcing the closure of the Dockyard. The Chief Minister himself complained about this in this House in one of the strongest statements I have heard him make. As a result of this Foreign Office officials flew to Gibraltar the very next day. The British Government did to the Chief Minister what the Chief Minister has now done to us. They made their decision and then came to consult us about it, in the same way as the Gibraltar Government has made its decision, signed an agreement and come to the House of Assembly for the rubber stamp. We complained bitterly about that. We gave the Chief Minister our full support on that occasion, Mr Speaker, and we appealed again for a Gibraltar view. The rest is history, a memorandum was drawn up and we all agreed to get together. It is true that my Hon Friend and the Gibraltar Trades Council did branch off a bit and did their own lobbying in England but a memorandum went out. We all went to London as a united body in March, 1982, I think it was. It was about eight days before the Falkland Islands were invaded. We presented a joint view, a united view, to the Minister in London. The Minister then was Mr Humphrey Atkins who only lasted five days after our visit. After that, well, we came into more recent history. Studies were made and we on this side of the House were provided with certain reports on the diversification of the economy and on the possibility of a commercial Dockyard for Gibraltar so that we could look at them on a confidential basis. I received a number of letters at that time, in December 1981 when Lord Carrington was Foreign Secretary. He wrote back to one of the Members of Parliament I had written to, Lord Boyd-Carpenter, and quoted from the White Paper and what was said by the British Govern-

ment in the White Paper. He went to the root of the present situation when he said: "Consideration will be given to alternative ways of fulfilling the Government's obligation to support the economy of Gibraltar if it is decided that the Dockyard work there cannot be kept up indefinitely. This consideration will be undertaken in closest consultation with the Gibraltar Government". This was the undertaking in the White Paper and the base today, Mr Speaker, is this. This is what it is all about. It is not: We close the Naval Dockyard and take whatever we give you". It is not about that. It is about not closing the Naval Dockyard unless we first find an alternative way of fulfilling the British Government's obligation to support the economy of Gibraltar. Of course, Members of Parliament would have asked yesterday whether the British Government was offering too much. Of course, they might think it generous, especially after the Gibraltar Government had already accepted the offer. Of course, they might wonder about work being lost in England. Although it is significant, Mr Speaker, that we are talking of 1% of the total of ship repair and naval work in England. Of course, MP's would query it. What was our job, Mr Speaker? Our job was to ensure a good public relations exercise within Parliament to explain the position of Gibraltar. Our job was to have made sure that the British Government had said clearly: "This is not a case of charity for Gibraltar. This is a case of fulfilling solemn commitments given by us to the people of Gibraltar at the time the Spaniards had restrictions on Gibraltar when we said that the Spanish campaign, which continues to this day, shall not succeed". It is not a question of taking money out of a yard or taking money from Tom, Dick and Harry it is a question of fulfillment of the British Government's obligation endorsed in the Government's Defence Review. One knew that Mr Dalyell, for example, was certain to query it. He is the one who even today wants the Falkland Islands to be given back to Argentina without any more delay and Gibraltar in the bucket. He wanted Spain to be consulted on what happened in Gibraltar. Of course; but he is just a madman. He is just one man there who hardly carries any support at all in Parliament. Of course, these problems were there. That was why there was a need, Mr Speaker, for a Gibraltar view for a united stand and for an appeal to Parliament if necessary. However there was no need for the Gibraltar Government to take decisions over our heads and to say: "Well, we have come to the conclusion that there is no way of changing the Prime Minister or the British Government. We came to the view that it was no use going to Parliament since nothing would happen". What would the outcome have been if we had taken that view on the British Nationality legislation, Mr Speaker, when the British Home Secretary, the Foreign Secretary and everybody else in Parliament repeatedly said no? If we had given up then, what would have been the result? We would now be British Dependent Territories Citizens. I am not saying, far be it for me to suggest, Mr Speaker, for one moment that if we had in fact consulted with each other, used the best brains in Gibraltar and brought everybody into it we would have succeeded. I am not saying that we would have succeeded but what I do say is that it would have been worth giving it a chance and that the Government has presented to Gibraltar a fait accompli. Their coming to the House is merely paying lip service to an assurance that we would be consulted before a final decision was made. The Chief Minister has told Mrs Thatcher: "I pledge my full support to it but this is subject to the approval of the House of Assembly". Yet it is a thing which he knows he is going to get

because he has got a majority in the House. We deplore that particular tactic, Mr Speaker. We do not deplore it because we look at it just simply as a political expediency. It is because we feel and we feel strongly, Mr Speaker, that the deal the Gibraltar Government has brought back from London does not meet the situation of Gibraltar. We are angry, distressed and disappointed that we have not been able to have a go at it because we know now that the decision has been made. The British Government has made its statement supported by the Gibraltar Government and the doors are closed and locked. There is precious little we can do except cry and shout and that is not necessarily going to be successful. Mr Speaker, for the Hon and Learned Chief Minister to ask this House to refer to the resolution of February 22nd, 1983 and after quoting paragraph 5 thereof say that this is the consultation he is bringing to the House is to misinterpret the motion and what was said, not just by us, but by himself at the time. This is not consultation, Mr Speaker. This is trying to go through the process to put the blame on us, if we vote against, for any problems that arise as a result, and they will arise. Mr Speaker, the Hon and Learned Chief Minister recognised the problem that this would bring when he spoke in the debate on the 22nd February, 1983, on my amendment. The amendment that full consultations should take place between all the political parties represented in the House of Assembly before a final decision was made on the commercialisation of the Dockyard was proposed by me, Mr Speaker, and supported and accepted by the Government side. In support of it I said that we had to have consultations, we had to get round a table and talk before final decisions were made. In that debate too, the Hon and Learned Chief Minister promised to let us have consultants' reports etc. so that we could form a view. In a question time period, I think it was in March, 1983, when the Government confirmed that they had received the consultant's reports, the Hon and Learned Chief Minister, referring to the reports, said: "We must first look at them. We must first read them. We must first form a view ourselves of what we think about them and then we will let you have them". In fact we got them, I believe, in the week commencing June 13th of 1983 when I was away from Gibraltar. But where are the consultations, Mr Speaker? Let us see what the Hon and Learned Chief Minister said. I quote from page 87 of the Hansard Report. He said: "full consultation is fully accepted by the Government and in fact it was never the intention or indeed, I wonder whether we have the power, to go it on a commercial basis purely as a Government without the consent of all the others, if only because of the legacy that that would leave behind if there was no agreement". This is what the Hon and Learned Chief Minister said in this House in February. "There may have to be a consensus or there may have to be a parting on the ways but at least everybody should consider that, when the time comes". So this has just not happened, Mr Speaker. It has not happened. I don't know why it has not happened. We were given all these reports to look at. We had a presentation by the Gibraltar Government's consultants and we also had a presentation by Appledore, the preferred operators. We also were asked to look at a report prepared by consultants appointed by the Gibraltar Government to check on the consultants appointed by somebody else and on Appledore, a double check. The Hon Mr Bossano has complained that he was asked two days ago. Well, I was asked, I think, a day before he was. He saw it yesterday I saw it the day before. A very wise thing and one which we agree

with. However they do not seem to have taken much notice, if I may say so, Mr Speaker, without disclosing any secrets, of what the double check report said. That is what has concerned me in the last forty-eight hours; seriously concerned me. So, Mr Speaker, let me say straight away that we deplore the lack of consultation there has been. We deplore it because we feel that if we had all got together, a better package, put it that way, might have been obtained. I think that even the Prime Minister of England, however impressed she might have been by the Hon and Learned Chief Minister and she must have thought him an impressive character, if she had had three people representing the political parties in the House of Assembly with a united front and asking only for what we feel we deserve and we are entitled to, the question will never be answered, Mr Speaker. It is no use the Hon and Learned Chief Minister saying that "they are quite convinced that the Prime Minister would not have changed her mind", because the Prime Minister herself said on the actual day the Hon and Learned Chief Minister was flying to London on his third visit to Parliament, "The Dockyard will close" - she didn't give a date - "and that is irreversible". We know that and if the Prime Minister says that, it is difficult to move her. That may not be impossible if she is made to realise the real situation of Gibraltar. Mr Speaker, as you are aware, or as the House is aware, I wrote to a great number of Members of Parliament on the 14th June, I think it was, asking them to support Gibraltar. I told them that it was possible that the commercialisation of the Naval Dockyard was not viable. I didn't say it wasn't possible, I just said that it was possible from what one had heard. At that time, at that moment of time, Mr Speaker, I was in London and I had not read the consultants' report or the project study group report or whatever. I had not read that. I told them that it was possible and that therefore we thought we might need their help. I wrote to a great number of Members of Parliament at that time. Let me say straight away the reasons why I wrote at that particular point. I have got an Hon Member on this side of the House, my Hon and Gallant Friend Major Peliza, and, although I should not prejudge what he is going to say, I have a suspicion that he feels rather strongly that the commercialisation of the Dockyard is not viable. However, at that time I could only go by what I myself had heard Government Ministers say in the House at the time of the budget. I had heard the concern of the Financial and Development Secretary, the concern of the Minister for Economic Development and of course the Hon Major Dellipiani who said quite clearly: "In my view commercialisation is not viable". When I wrote on June 1st to the Chief Minister inviting a united all-party approach to Parliament on the issue, it was because I had grave suspicion that commercialisation was not viable and that we had a struggle on our hands. I told him that, apart from anything else, I would certainly be writing to start getting support. I did. I won't refer to the correspondence that followed, Mr Speaker. The only thing I will say is that, as far as we on this side of the House or the Democratic Party of British Gibraltar is concerned, we have all along tried to help in the process of obtaining a viable solution for the problem that is created by the British Government's decision to close the Naval Dockyard. Our stand has always been: "Don't close but if you are going to close, don't close until you have got a viable economic alternative because that is not what we say it should be, it is what you yourselves have said it would be. We will consider ways and means to providing an alternative, a viable economic alter-

native'. Mr Speaker, it is difficult for us, without breaching confidences, it is difficult for us to say why we do not consider, and I am confining myself to the commercialisation of the Dockyard part of the deal, why we do not consider that to be a good deal and one which we can support. Before saying that, however, let me just touch on the question of the land that the British Government, as part of the package of the new Lands Memorandum, has agreed to hand over prime development sites to Gibraltar free of charge. Mr Speaker, that is a generous move, the Government has done well to get that and I am not complaining about that. I think that the British Government's agreement to reprovide these areas at their own expense is fair and reasonable and we thank them for that. We do not wish a confrontation with the British Government. We do not look for civil war in Gibraltar, Mr Speaker. We look for what is fair and for what is just but let me tell the Government one thing on this lands deal. Does the Government seriously believe that it can get private capital to develop in Gibraltar in view of the situation that Gibraltar is in today? Has there been any development started or commenced in the last year since the Spaniards opened the frontier in the way they did? Have the Government forgotten the diversification of the economy report that was handed to me on a confidential basis? So again I cannot say very much. However, its provisions seemed to believe that diversification depended fundamentally on an EEC type of opening of the frontier and not this blockade that we have got, not this siege that we have got that is bleeding us and bleeding us to death. How does the Government propose to get developers to spend millions of pounds in Gibraltar in the present economic climate of Gibraltar and in the present situation vis-a-vis Spain? What has happened with the old Command Education Centre? We have been told that there have been no takers. What is happening with the eastern reclamation? What has happened, Mr Speaker, with the car park at Casemates, with buildings going up and so forth? I am sure it is positive. They are going to build a car park so that the people who take their cars to Spain can bring them back and park them there. That, Mr Speaker, that is our problem, the problem of having diversification of the economy with a siege at our door is not an easy one and we all know it. What is happening with the hotels? What is their occupancy rate, a bit higher, Mr Speaker, but what is it? Are they viable today? I am amazed to read in the statement of the Hon and Learned Chief Minister that they promise to have a push in tourism, that they promised to do something about it. Well they have been promising that, Mr Speaker, ever since they came to office after the famous two years and ten months and the situation has in fact deteriorated, possibly not for reasons of their own, but these are the facts of economic life, Mr Speaker. Therefore, in the context of the Dockyard and the recession that that will bring, we think, frankly, that the giving of prime sites, good as they are in themselves, does not provide economic answers to the economic problem that Gibraltar is facing today and will face when the Dockyard closes. That is what we are concerned about when we are talking of a viable alternative economically. Not buildings and lands agreements that make the land ours and the buildings ours but does not produce economic activity. What we want is that the Naval Dockyard, if it has to close, be replaced by an economic viable alternative. It is to that, Mr Speaker, that I would now like to turn. Let me take up the Chief Minister on one, well, I wouldn't call it small point, but I think a significant point on the question of the

Appledore proposals. We are frankly very worried about it. We were impressed when we had the presentation. There is a lot of professionalism in Appledore. They have won the Queen's prize for export. They are professional people and they gave us a presentation of what they hope to achieve. Frankly, Mr Speaker, the Hon and Learned Chief Minister did in fact refer to one of the things they hope to achieve. That was that in the fourth year of their operation, I think he mentioned 1989 or 1988, there would be, if all went well, 1,300 jobs in the Dockyard. More than there are today, more than are to receive redundancy notices. However I think, Mr Speaker, that the Hon and Learned Chief Minister is being less than fair to the House if he just tells us what Appledore hopes to achieve in 1989 and doesn't also tell us what the other people think. The expert consultants think, and certainly the latest consultancy report to the Government for which we are paying and in respect of which we voted £20,000 in this House, without disclosing any secrets, seems to indicate this, that Appledore were living in cuckoo land when they made that estimate. What concerns me, Mr Speaker, is what the Chief Minister himself has said in this House. He has disclosed something new today that we didn't know when we had the Appledore presentation. Let us recall the Appledore situation. They said in their original submission to the Gibraltar Government that they would employ 755 people in the first year of operation. Then, Mr Speaker, some time later a report appeared in the Chronicle under which they said they would be taking on 300 or 355 at first. Any more takers would depend on developments. Of course, that caused an outcry and then the explanation was given by Appledore to the public, I think, but it was certainly given to us in their presentation, that it was impossible and we understood this, it was impossible to employ 755 people on day one because you had to, somehow or other, get going and get organised and so forth. That was, Mr Speaker, in the context of an opening of a commercial yard on the 1st January, 1984, six months away, when, from what we heard them say and from their presentation and the dates that they had to be given, we knew that it was a practical impossibility to start a commercial operation in the Dockyard on the 1st January, 1984. We felt that if there was just the slightest bit of good faith on the part of the British Government towards Gibraltar and we believe there is a lot and a wealth of good faith and good feelings towards Gibraltar, the British Government itself would quickly recognise that the 1st January opening date was an impossibility. A practical impossibility possibly caused by the British election in June or something else but they would know that. But now, Mr Speaker, when they have got a whole year now because of the deferment - and I congratulate the Government on achieving that, that is a plus, we will give credit where credit is due, we thought they would get six months, Mr Speaker, they got a year, that is a plus - we have talk in the statement of the Chief Minister of coming to an agreement with the Union, as I hope they will do if this goes on, and of Appledore's hopes of having about 755 employed by the middle of the year. With more time now to plan the whole thing, Mr Speaker, it should be possible, should it not, to have more employed on 1st January 1985. It should be a much easier prospect but what does the Chief Minister tell us in his statement, perhaps it is an error. He tells us that Appledore hopes to have about 755 by the middle of the year, it is no longer three months after operation, it is now six months, Mr Speaker. With more time to prepare, it is now six months before they employ 755. If one reads

carefully the consultants' reports as, I hope, we have done, one sees that obviously the increase of the numbers to be employed, and this is clearly a commercial matter, would depend on the business the Naval Dockyard gets. That is how the numbers will increase and it will increase on the basis of a number of other factors, that must be obvious. What we question on this side of the House, Mr Speaker, what we question is not whether Appledore are first class operators but whether the business is there. That is the big problem. Mr Speaker, that a commercial yard faces in Gibraltar and everywhere in the world. Will a new yard just started off suddenly take away the little bit that there is from all the experienced yards in the world who will be reducing their prices to compete, not with us, but with each other. What sort of chance is there for a commercial ship repair yard in Gibraltar in the economic climate that exists today in the ship building and ship repair industry. Whereas one is prepared, I suppose, to make an act of faith, when one has no other choice, in the Appledore proposal, one becomes less and less and less prepared to make such an act of faith when one hears reports from experts and consultants that the propositions put forward by this firm are unrealistic, that their hopes are unrealistic and all the other things that we have had to read in these consultants' reports. This helps, Mr Speaker, to reinforce the point and the complaint that I have made about lack of consultation because if the Gibraltar Government had called me in and the Hon Mr Bossano in and said: "Look, we are now going to London. We have accepted that the Dockyard is closing, we cannot help that, will you join us in this? What do you think about it? What do you think of the reports you have heard?" I must make one complaint, Mr Speaker, that one report, the one I read two days ago, twenty-four hours before debate in the House on the matter, I noticed was dated 13 June, 1983. I think it would have helped us enormously to have seen that report a lot sooner that we were actually allowed to see it. However, it reinforces the point I made that it is impossible for me to argue when I cannot disclose what is in the report. It is impossible for me to argue on factors I cannot disclose but merely on general impression and to try and convince the Government on the matter and that there is need for thought as to an alternative. That is why I am glad of the years deferment because I believe there has to be a lot more study done, Mr Speaker. I would like to know how and in what way the changes that have been negotiated with the British Government have decisively changed the situation from a very poor outlook, which is what the Government was projecting during the budget time in April, 1983, a gloomy prospect about Dockyard commercialisation, the Appledore proposals and their report of a project study was there with them. They had it then and they knew that the £28m figure was there then and the £11m naval work figure was there then. What has changed the Government since they told us all in the budget that it might be impossible to govern Gibraltar because it couldn't put them in a situation to govern Gibraltar? What has changed that position between April, 1983 and today? The extra £3m of naval work? Does that make an unviable commercial ship repair operation viable? They have had a deferment of one year, Mr Speaker, and they have had a bit of land. Well, a lot of land, acres of it. They have got a lot already themselves which they never develop and don't do anything about. How does that help the economy? How does that help employment? How does that help the building industry? If the Hon and Learned Chief

Minister had said and had announced, and I am not blaming him for not doing it if he hasn't got it he cannot announce it, that on top of handing the buildings over, the British Government was giving the Gibraltar Government, £8m, £9m, £10m or £6m, £5m or £4m, whatever million pounds to get economic activity going in the building industry, then I can understand it. That is not the case, as I understand it. If the Hon and Learned Chief Minister has said that development aid is something quite apart from all this, till when are we going to wait, Mr Speaker, on that? This is basically, Mr Speaker, what we want to know. What is it that has changed the Government from a gloomy prospect verging on resignation in April to accepting a deal which is substantially what was on their plate from the consultants in April, 1983? I ask another thing, why haven't they got, Mr Speaker, the sort of guarantees that they have been recommended that they should get from their own consultants? I cannot go further than that? Our view is that the case for commercialisation as a viable alternative has not been made out and therefore the British Government commitment to find alternative ways for fulfilling their obligation to sustain and support Gibraltar is not met by a commercialisation of the Naval Dockyard. We wonder, Mr Speaker, whether there ought not to be further studies made into the diversification, for example, of the Naval Dockyard suggested by other operators who put proposals to the Gibraltar Government. How can the Gibraltar Government stick loyally and completely with an operator whose projections and whose opinions have been so severely criticised by expert consultants employed by the Ministry of Overseas Development and employed by the Gibraltar Government? Surely some doubts must be in the minds of the Government as to the operators claims to the desirability and viability of commercialisation. I would certainly have very serious doubts about it if I was sitting where the Hon and Learned Chief Minister is. With those reports I would have them and I feel bound to say, Mr Speaker, that I cannot go into details because they have been handed to us confidentially. We feel, Mr Speaker, that the Government should take this extra year's grace that has been given to the Naval Dockyard to look further into the matter of viability and into the sort of assistance that Gibraltar requires if it is to survive as a viable economic unit. The Hon and Learned Chief Minister thought it necessary in his speech to refer to the other part of the economy that is being affected by the Spanish siege, the private sector. He referred to how we are being bled by the manner of opening of the frontier, with the Government losing £2m in revenue a year and the people of Gibraltar £5m a year. He almost referred to how he felt himself, well not almost, he did, he appealed to the patriotism of the people of Gibraltar on excessive expenditure in Spain. I would certainly like to hear him tell the House once and for all that the Gibraltar Broadcasting Corporation will not be allowed to advertise Spanish products, Spanish services and Spanish villas in Spain out of public monies voted by this House to promote exactly what the Hon and Learned Chief Minister has called unpatriotic, the spending of all our money in Spain. A Government subsidised Corporation, subsidised to the tune of nearly £1m, goes on cheerfully taking advertising time on prime advertising space, calling on the people of Gibraltar who have spent a whole day in Spain swimming or buying vegetables and sit at home to watch something about Gibraltar and then they dangle the carrots of villas of £10,000 and all this business. The Government has to be meaningful, Mr

Speaker. Of course Gibraltar is a democracy, of course the Hon and Learned Chief Minister cannot stop people going to Spain, of course he cannot punish them for being unpatriotic and so forth, but he can control what is within his control. I mean, I wanted to be consulted on the appointment of the Chairman of GBC, I know. That was his prerogative to get an impartial person. The Governor in Council can give direction. Well, let's see some leadership in that direction, Mr Speaker. And what I said about the economy being bled by the Spanish siege is a very relevant factor in the issue of commercial viability. I remember reading a report which was optimistic about diversification of a commercial dockyard with an open frontier and the development of the private sector. Diversification held good economic prospects. However I also remember the same report saying that with the frontier closed though, it would be a very different story. This is worse than a closed frontier because this is a leak of a considerable amount of capital from Gibraltar. Mr Speaker, in order that a judgement can be made rationally by the people of Gibraltar on the package that the Chief Minister has negotiated and brought back to Gibraltar, it is our view that the Government should make public the reports, all the important parts of the reports in relation to commercial viability, in order to allow the people to make a judgement on it themselves. Because, Mr Speaker, the issues before this House are of profound importance, not just to the Government and the Opposition, but to the whole future of Gibraltar and its economic viability, in view of the difference of opinion that there is on both sides of the House, it is our view that the Government should test their proposals in a general election. I notice that Mrs Thatcher, not Mrs Thatcher, I beg your pardon, yes I think it was Mrs Thatcher, Sir Jeffrey Howe and Baroness Young in the letters that they wrote to all members of Parliament, that I wrote too, said that the British Government would not force on the Gibraltar Government anything they do not want. By the same token, Mr Speaker, the Gibraltar Government should not force on the people of Gibraltar anything they do not want. That is why we think that the Government proposals should be tested in a general election. Mr Speaker, I am therefore moving an amendment to the motion of the Honourable and Learned Chief Minister which encompasses all I have said. Perhaps, if I could give it to you, Mr Speaker, and I could perhaps read it. It follows the traditional form, Mr Speaker. I move that the motion be amended by the deletion of all the words after the words: "This House" and by the substitution of the following words:-

1. Deplores the failure of the Government to adhere to paragraph 5 of the motion passed by this House on February 22, 1983 to the effect that full consultation should take place between all the political parties represented in the House of Assembly before a final decision was made on the commercialisation of the Dockyard.
2. Considers that the British Government pledge contained in the Defence White Paper of 1981 to find alternative ways for fulfilling their obligations to sustain and support Gibraltar in the event of Her Majesty's Dockyard closing, is not fulfilled by a project of commercialisation of a Naval Dockyard which is not likely to be commercially viable on the terms agreed.

3. Welcomes the deferment of the closure of the Dockyard for one year and urges the Government to institute immediately investigations aimed at ensuring a viable alternative for the Gibraltar economy.
4. Urges the Government to make public the Reports on which it has acted in deciding that commercialisation of the Naval Dockyard is viable on the terms and conditions that have been agreed.
5. Calls on the Government to hold a general election in Gibraltar to test whether the proposals they have negotiated unilaterally with the British Government have the support of the electorate.

Mr Speaker, I beg to move.

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

MR SPEAKER:

We are now going to speak on the amendment. I will be liberal on any Member who wishes to speak on the amendment to the extent that if he wanders into the general and the original question before the House, he will not be allowed to speak subsequently. Of course, there is a fair amount of area between one question and the other and I will be liberal today. However, I will not countenance any repetition.

Do I take it that there are no contributors to the amendment?

HON J BOSSANO:

I would have preferred it if the Government had intended to support the amendment. Before speaking on the amendment let me just say that it seems to me Mr Speaker, that there is a contradiction in the amendment and perhaps you would clarify for me whether it is possible to move motions that contradict themselves. I would have thought, Mr Speaker, that if the Government were to accept what Clause 3 of the amendment suggests, then presumably they wouldn't be required to do Clause 5, alternatively if they do Clause 5 they wouldn't be required to do Clause 3, I would imagine, Mr Speaker. I would have thought that if they accept that the year's deferment is used to carry out further investigations because we decided according to Clause 4, that commercialisation on the present terms is not viable, then you don't go to an election to get support for something that is not viable, which is what they are asking one to do in Clause 5.

MR SPEAKER:

There may be a contradiction. Whether it is deliberate or not is another matter but it is not for me to decide on such matters. The

amendment is acceptable as drafted, whether it is non-sequitur is another matter.

HON P J ISOLA:

Can I just explain the point, it did occur to me, Mr Speaker. What that is intended to convey is that investigations should start now. An election would probably take a little time.

MR SPEAKER:

Let it be said, and I should make this complete and utterly clear at this stage, that when there are complicated questions before the House and where it is possible for Members to vote in favour of part of the question and not others, it is possible to have separate votes, but of course it is something that has to be decided at a later stage.

HON J BOSSANO:

I think that the only difficulty with the motion, Mr Speaker, let me say, is not as to the content of anything of its five individual constituents. The only problem that I see in the motion is, that the Honourable Member, in his exposition, has discovered a range of different ideas, none of which necessarily require the other to be true. I mean I think each of those five parts stand on their own right independently and therefore, I think, irrespective of whether commercialisation is viable or not, one can deplore the failure of the Government to consult. I think, in fact, if it is the view of the House, as indeed it is my view, that the proposals which have been presented for commercialisation have had a very substantial question mark put on them by those who have examined them, and not just by people like myself who were against them from day one, then it seems to me that to ask the Government to test public support for that is in contradiction. I think the Government can legitimately be asked in this House if they are themselves convinced and if they are in a situation where they can make up their own minds to support commercialisation when the rest of the House of Assembly is not. I think it is legitimate to say to the Government: "Well you really haven't got the right to sign an agreement which, in fact, has to be implemented in 1985, when there has to be an election in May 1984 at the latest". This is a point that I have already made in my contribution yesterday. It isn't binding on whoever may be there in 1985. I think that if the Government itself is convinced it is legitimate, I think if we are asking the Government to reconsider its own position, then - perhaps I could move an amendment to overcome that problem and I wonder if the Honourable Member would agree that that might do the trick - by saying after the word "agreed" in Clause 4 or, alternately, if the Government refuses to freeze, as it were, the agreement on commercialisation then perhaps they ought to be asked to test public support for it. Let me say that my only reservation on asking the Government to go to an election on this issue is that as far as I am concerned, even if the Government went to an election on an issue like this and they got the support of the

electorate, to my mind it wouldn't convince me that the commercial dockyard is viable, and if the crux of the matter rests on whether it is viable or not, then I think that the fact that the electorate supported the Government would not be conclusive proof that the people want commercialisation. It very much depends on how you put the question before the people because it may well be that if you put a situation where you say to people: "The British Government is only prepared to provide money for commercialisation and nothing else", I don't know whether the Gibraltar Government has been told that, we haven't been told in the House of Assembly whether in fact this is the case, but it seems to be, Mr Speaker, implicit to some extent in the fact that the £28m is conditional. I am glad that the Honourable and Learned Chief Minister has cleared up that the question of the land is not conditional on any agreement with the union. I found that highly objectionable when I got that impression from the answer he gave me yesterday. I am glad that this is not the case, but it apparently still is the case and one can see how it would be the case, that if there is £28m to be invested and if Appledore itself has said that it will not take on the management of the dockyard unless it can get certain guarantees from the Unions as to what it considers to be necessary to make the thing successful, then the British Government would then stand idle from day one. Does that mean that if commercialisation is out, then there is no money for anything else? Well, if it means that then I have no doubt what a lot of people would say given those two options. However bad Appledore may be, however doubtful the outcome may be, it is better than nothing, yes, there is no question about it. I think we need to know what it is we are asking people, because certainly I am objecting to it on the grounds that I haven't seen anything to change my mind, as the Honourable and Learned Leader of the Opposition has said. If people were asked: "Will you accept this which is highly dubious or nothing?" and they accepted this which is highly dubious, it doesn't stop it being dubious. It seems to me that the Government itself, from the reaction I have just had, has not, in fact, fundamentally altered its mind. I think the answer to the Honourable and Learned Leader of the Opposition's question as to what had happened to make them change their mind, is that nothing has happened to make me change my mind. What has happened is that the British Government has made it clear, that, as far as the British Government is concerned, they themselves are convinced that this is the best solution for Gibraltar. Therefore whether we like it or not we have to lump it. I would have thought that that is in fundamental conflict with the letters the Honourable and Learned Leader of the Opposition has been quoting and I would have thought that, perhaps, that lends weight to his argument in the first part of the motion, Mr Speaker, about the lack of consultation. If the Government is being told one thing and the Leader of the Opposition is being told another, then perhaps if they were able to tell each other what they have been told independently, whoever is putting up these conflicting views might be caught out. I don't know, I have certainly no contact with either Members of Parliament or the British Government on the question. I have only to base my judgement and my unwillingness to support the commercialisation proposals on the requirement for success. I am basing my own political opposition to this obviously I think a deferment of the closure of the Dockyard for one year is welcomed in the sense that if somebody was going to find themselves unemployed in January 1984, then whilst what we want is that they should not be unemployed at all, it is preferable that they should be working throughout 1984 and

not be out of a job until 1985, but is that the case? I mean before we go into welcoming the deferment, have we got a deferment of one year, because I am not so sure that we have, Mr Speaker. It seems to me that we have a proposal that the actual final day of the closure of the Naval Dockyard will be December 1984, but as opposed to the situation we have today. Let me say that I think the Honourable Member in his own statement, when he talked about the British Government having already given us more time, I don't really think this is accurate, Mr Speaker. The Honourable Member said the British Government accepted and granted the request for time, that is the request for time in the memorandum we all signed. Well we didn't sign a memorandum asking for the target date to be moved from March to December 1983. I think the Honourable Member is completely wrong in that, absolutely and completely wrong. Yes, the Honourable Member says: "How long is a piece of string". Well, it depends on who is holding the string. The Honourable Member will recall that the memorandum which we all took to UK was signed by all the representative bodies after the return of the Trades Council from visiting Mr Blaker in UK, and Mr Blaker in UK, before the memorandum, had already told the Trades Council that the final date for closure was December 1983. We couldn't therefore be asking for a deferment from March to December, when the Memorandum came after we had already been told that the final date was December. We were told in February that the target date was March but that, in fact, the commitment of the British Government was to commence and to complete the closure within 1983. I remember Mr Peter Townsend of the IPCS asking whether this meant that the final date was December 1983, and the answer from Mr Blaker was yes. After that we all signed the Memorandum asking for a deferment. It must follow logically, that if we have already been told that the maximum that the Dockyard will be kept opened is December, 1983 and you go back and ask for more time, you are asking for more time beyond December, 1983. Therefore, the paragraph, Mr Speaker, is inaccurate. The Honourable Member said that we all asked in the Memorandum for more time and that the British Government granted the request by moving the date from March to December. I am telling him that we asked for more time after we had been told that the date was December, so the Honourable Member must be wrong in his interpretation.

HON CHIEF MINISTER:

What I was saying is that the Memorandum only asks for time and although this time may have been granted as a result of the effort, further time has been granted now.

HON J BOSSANO:

I accept that Mr Speaker, I am not trying to take away the credit from the Honourable Member for having achieved a deferment. What I am questioning, and I am going into detail in a minute on that because it is part of the motion - I am not questioning that and I am not trying to take that away from you, what I am saying is that in his statement he said that we presented a memorandum in March, 1982, where we mentioned the date of 1985, where we said that we wanted sufficient time for a viable alternative to be identified and he says in his statement that that was accepted and

granted. I say to him that, as far as I am concerned, and I don't know whether the Honourable and Learned Member when he speaks will tell the House whether he was a signatory to the Memorandum and whether he thinks that that request was accepted and granted by saying December 1983, but I can tell the Honourable Member that certainly I signed that Memorandum after I had already been told that it was closing in December 1983 and as far as I was concerned I was asking for a deferment beyond December 1983.

HON P J ISOLA:

In a report of a meeting with the Minister for the Armed Forces, Ministry of Defence, Mr Peter Blaker, on the closure of the Dockyard, held on the 28th January 1982, in which he was present - I got the minutes of his union, I don't know why I have got it - it is reported that the Minister said the decision had been notified for the 23rd November and the Government would be consulting the Gibraltar Government about what happened after 1983. I don't know why I have got these minutes of the meeting that he had.

HON J BOSSANO:

We circulated it to all the members of the representative bodies. We don't keep confidential documents. I think that is important because I want to come to this question of deferment. As far as I am concerned, Mr Speaker, there was this united stand for asking for a deferment beyond 1983 and I think the statement made by the Chief Minister that this had been accepted and granted by moving it to December 1983 was wrong. I said quite clearly when we came back that the answer had been no and it appears that, in fact since then, the Chief Minister has achieved what the three of us could not. That would appear to be the case. I am asking if that is indeed the case. Have we got a deferment or is that conditional on the unions agreeing to accept commercialisation now? If the unions turn down commercialisation now, is the closure date still December, 1983 or does the year's deferment stand? In fact, if a year's deferment doesn't stand, then perhaps we shouldn't rush into welcoming the deferment and we certainly should not ask the Government to carry out further investigations into other alternatives to Appledore because there won't be a deferment unless we accept Appledore. Is that the case or not?

HON CHIEF MINISTER:

My understanding of the situation is that the year would show whether the workforce would be prepared to work in a commercial dockyard or not.

HON J BOSSANO:

I can see that, Mr Speaker, if the sum of the practices that Appledore claim will achieve an improvement in productivity were to be tested in the existing environment, that might be a greater indication of their probability of success than anything any consultant says. At the end of the day, however much expertise the

consultants may have, it is still a hypothetical situation. I mean, one is predicting what may happen in the future and one is not testing it, as it were, on the ground. I accept entirely that if you have got a situation where the unions agree to introduce some of the ideas of Appledore within a Naval Dockyard, then, it can be seen whether those ideas can be made to work and if they work whether they have produced that much increase in productivity. That is an empirical way of testing, if one likes, some of Appledore's theories. I wouldn't argue with the logic of that. It seems to me that this question of prior agreement, perhaps I am being over-suspicious or over-cautious, but it seems to me that this prior agreement which appears to be linked to land is not now linked to land but is certainly linked to the £28m. If the situation is that the move towards commercialisation or the setting up of a commercial dockyard is not agreed with the unions at an early stage, between now and December, would the deferment still stand, whether it was to test their ideas or otherwise, or is there a condition attached that between now and December

HON CHIEF MINISTER:

No, I can say that that has never been mentioned.

HON J BOSSANO:

I thought it was important, Mr Speaker, to clear that up. In that case I think it is easier to welcome the deferment for one year. I agree entirely with the need to make the Reports public, and I certainly think that it is extremely difficult to carry out a debate on a subject without making reference to documents which we have all seen and which nobody else is supposed to have seen and consequently we cannot quote. I think that unless we are able to quote from them, I mean, we haven't really, I think, Mr Speaker, we haven't even had an opportunity to, as it were, cross examine each other on what we think the Reports mean. The only time that we have met has been to hear an exposition or an expansion by the people who have written the report, where we have asked them questions. Some other things have come out as a result of those questions which were not in the Report and which are also very important. We each have presumably made our own judgement on what the implications of those Reports are. I am not sure whether the judgement that I have made differs considerably from those of other members or not, but the only way to test it, it seems to me, is to say what I think the report says and find out if other people coincide or not. If they don't then I should explain why I think that the report means A or B. Now that requires references to reports which presumably we are precluded from doing until they are made public, so I certainly support that they should be made public. Let me just say one thing, going back to the original Peida study, when the White Paper was announced and to the latest Michael Cassey Report, there is a consistent thread running through it about the limitations on what is available. I think that is one of the most important factors in all this. Therefore it seems to me that when we are talking about finding a viable alternative for the economy of Gibraltar, I am not so sure what we can expect to produce by having more experts or more consultants. It seems to me that what every consultant has

said so far, irrespective of what else they may have said - and this doesn't just go back to Peida, it seems to me it goes even back to the Report and other things which we have always thought were loaded politically - but there is one consistent thread, is that Gibraltar's economy without the cooperation of Spain, has got very little room for manoeuvre. Now that consistent thread which is there in all the consultants' reports means that what can be produced from further investigations, in my judgement, is limited. It is that, in fact, also which needs to be pointed out to the British Government, in that what we can do out of Gibraltar, has got to have a question mark put over it. I remember when we had the presentation from the consultants. They were asked about the Crinavis operation down the road. The consultants themselves said, the consultants which were assessing Appledore not the consultants that were assessing the consultants, they said, Mr Speaker, that they would produce a final report, which I have not seen. I don't know if the Honourable and Learned Member has seen it. The final report of Coopers and Lybrand and A R Belch Associates says that this is an interim one and that there is a final one on the way, which I haven't seen and other Members haven't seen either. They say there that there are other factors including possible Spanish reaction to a commercial dockyard which have not been gone into. I think that needs to be gone into. Now I remember that when the matter was raised with Appledore they sort of, you know, put the idea that Crinavis might be able to do anything because Nikko International, which was taking up the option to develop a yard down the road, was a very specialist, a very small firm and not in their league at all. Well I can tell the House that if that had any bearing in deciding the Government to support the commercialisation proposals, that is total and absolute nonsense. I have had my own Head Office in London carry out an investigation of Nikko International and it is an extremely powerful firm with about 50 subsidiaries worldwide, including one in Algeciras and another one in the Canary Islands, doing sand-blasting, shiprepair work on hulls, sand cleaning and all the things that Appledore say they are going to do in the Gibraltar Dockyard. I would have thought that was something that needed looking into. I remember when Appledore was asked about it, they said that these people don't count because they are just a very small firm specialising in boilers. Well it is not true, they are a very powerful firm. They are an international firm. They have got their Headquarters in Gothenburg. They have got about 50 subsidiaries worldwide and two of their subsidiaries are already in Spain, one in the Canary Islands and one in Algeciras. Now what happens if the operation, irrespective of all the goodwill and the hard work and everything else that seem to be necessary requirements, what happens if they cannot compete. Spain makes it her business, to make sure they don't compete. In fact, the last Report, Mr Speaker, that we had, makes clear just how uncompetitive an area of business this is and I don't see why this should be a secret. It's in every daily newspaper in UK. I mean it may be mentioned by a reporter, why should that be a secret. When one opens a national newspaper everyday one hears how much British shipbuilders have lost in shiprepair work and how the British Government is actually considering pulling out of repairing ships in UK because they cannot compete with the Koreans. Now what is the magic formula that will make Gibraltar a success where everybody else is failing. If Appledore have this magic formula, why don't they go and tell Mrs Thatcher about it, so that

she can tell British shipbuilders and stop all the redundancies? I think, Mr Speaker, that we need a deferment of the dockyard. I welcome the one year. I don't think it is enough but it is better than nothing and I welcome the one year. However I am not sure that it is a question of more consultants and more reports. I think that the only way that we are going to be able to make a go of Gibraltar is by a far more radical approach to how the Gibraltar economy is run. That requires more than has been done so far, more than just saying that you can have Rosia when you are ready with something to put in its place, or you can have Queensway. The Government may with the best wishes in the world, produce all sorts of plans but it isn't the plans. Presumably the British Government is not going to hand Rosia and it is not going to hand Queensway over because we put up a model in Mackintosh Hall. We have put up a model for the Main Street pedestrianisation and we have put up a model for the Command Education Centre. We have put up a model of each but they never get past the model stage. Presumably they will want to know that there is somebody ready to start work there. Therefore the achievement of the Chief Minister, after all his trouble with the British Government in getting this extra land, may never get past the paper stage. I think that was the point the Honourable Member was making about people not being willing to put their money here when there is the uncertainty about Gibraltar's potential, with a frontier situation like we have today. So I will support the motion as a whole. I think that the last Clause is the one I have reservations about in the context of the other four. I don't have any reservations about asking the Government to go for a general election because I have already did that in the Budget. I think that it is legitimate to say to the Government: "If we are determined to go ahead with this, then you really have no right to do it, unless you get a political mandate to do it. Although as far as I am concerned, if they get a political mandate it won't necessarily mean that the thing is successful and I am not prepared to support it unless I am convinced that it is successful. But certainly, it seems to me, that if we are asking the Government to freeze the Agreement and reconsider it, then they cannot do both things. They cannot go to an election and freeze the Agreement. Therefore, I would think that the 5th Clause should be there as an alternative to one of the others, presumably the one which says that they should use the year to institute immediate investigations aimed at ensuring a viable alternative and urges the Government to make the Reports public. I think that in Clause 4 we are saying that, or we are implying that we want them made public because we don't think that it is commercially viable. In Clause 2 we say that we don't accept that the fulfillment in the White Paper is met by Appledore's proposals and therefore, to ask the Government to go to an electorate would follow, as far as I am concerned, Mr Speaker, if the Government were unwilling to accept either 2 or 3 or 4. Then the alternative would be 5. I am not quite sure how I would do it but perhaps another Member of the Opposition, if they agree with the point I've made can think of a way of amending it. I think that as it stands, quite frankly, we are asking it to do two things, one of which is only required if the other is not acceptable.

HON P J ISOLA:

I am grateful to the Hon Members for pointing out the drafting deficiencies in my motion. It is not usual for a lawyer to be told by a trade union official that he is wrong but, certainly, if he would like to move, after paragraph 4, the words 'or alternatively', I think that would meet the problem, and we would certainly accept that. I doubt that the Government would accept anything.

MR SPEAKER:

I will then propose the question which is that the amendment to the original question as moved by the Honourable and Learned Leader of the Opposition, be further amended by the addition of the words 'or alternatively', immediately after the words "being agreed" in paragraph 4 of the amendment to the original question. Now does any Member wish to speak on the amendment to the amendment?

MAJOR R J PELIZA:

Well I think I would like to speak on the amendment, on the small amendment because I think it is important and I can cover ground; more directly by directing myself at these two points which I think are very relevant. I think, in fact, it is great kindness on the part of my friend Mr Bossano and the Leader of the Opposition to have almost given the alternative to the Government to find a way out of the dead end that they have cornered themselves into. But I can see why not, Mr Speaker. I think that they would rather go to an election than disclose what is contained in the Reports because if they were to disclose what is contained in the Reports, perhaps literally, they would be hanging themselves. I, Mr Speaker, discovered at the time of the supplementary estimates that there was another Report of which we have heard nothing about. It just appears there as a vote for £20,000 and when I enquired the Chief Minister said that this was another report on the report that they had had, that this was one commissioned by the Government itself. It is an ongoing report but, of course, we will let you see it before the debate. I was wondering when we were going to see it, but about two days ago I was told that it was possible to go to the Government Secretariat and there have a look at the report. As soon as I entered I was asked to remember that it was confidential and could not be quoted. Quite honestly, Mr Speaker, I just could not swallow that. I had been swallowing quite a number of reports so far, all of which I thought were fairy tales.

MR SPEAKER:

With due respect to the Honourable Member, will you listen to me and will you please sit down. I will tell you why. You will soon be entitled when you are dealing with the amendment as moved by the Honourable and Learned Leader of the Opposition, to deal with paragraph 4. All that we are dealing now with is whether the words 'or alternatively' should be inserted between paragraph 4 and 5.

MAJOR R J PELIZA:

Isn't that what I am trying

MR SPEAKER:

No, you are not, with due respect, you are not. That is why I wanted to advise you that it would have been better if you had spoken whilst we took the amendment to the amendment. We have still, and you will be entitled, to deal with paragraph 4 and paragraph 5 on the amendment as moved by the Honourable and Learned Leader of the Opposition. All that you should speak about now is whether the words 'or alternatively' should be added or not. However if you want to do so, you are free to do so.

MAJOR R J PELIZA:

Mr Speaker, what I was trying to say is that I found it difficult for the Government to accept either and this is what I am trying to do to make a point that the Government cannot accept this for the reasons that I am saying. If they disclose the report, Mr Speaker, then there will be terrible trouble in that this town will see and everybody will realise how wrong the Government has been in accepting commercialisation when, in fact, the report, in what I gather, says that that would not be viable. Therefore, Mr Speaker, the other alternative is whether they will go to an election and we are saying do we accept one or the other. What I am saying is that I accept it because I think it is a way out for the Government, if they really want to take it. They have trapped themselves and they will find it difficult to follow either one or the other.

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

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

The following Hon Members abstained:

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 Hon D Hull
The Hon R J Wallace

The Hon J Bossano's amendment to the amendment was accordingly passed.

Debate continued on the Hon P J Isola's amendment, as amended.

MAJOR R J PELIZA:

The Government has very little to say since they have not yet, since the Chief Minister spoke for the first time, had the courage to stand up and express their conviction for what they have done. I think that should carry on. Mr Speaker, I will now concentrate on the amendment and therefore I will cover a little bit more ground.

MR SPEAKER:

On the amendment you can be as extensive as you wish, provided you later on don't wish to repeat yourself.

MAJOR R J PELIZA:

I will do my best not to. I am sure you will call my attention if I do. As I said before, I was shocked, Mr Speaker, when I was told that we were not allowed to disclose the contents of this report which we ourselves, not ODA, paid for. We paid £20,000 for it, perhaps more when we get the full bill. Here we are having a debate in which perhaps the most important issue ever debated at this House has come for debating and we are incapable of making use of the information that is available in those reports, not only to make our arguments more intelligently based on the information but, in fact, depriving Gibraltar as a whole and also Members of Parliament of the information that is contained in these reports. I felt so annoyed, Mr Speaker, that I think I should put it on record in the House since this is a matter that has been raised by other Members of the House, Mr Bossano and the Leader of the Opposition. I wrote letters to the Chief Minister there and then and I was told that I refused to read the report because I wanted to be a free agent in this House and be able to speak my mind without any form of inhibition. My thoughts I had gathered from previous reports, was that it was not a viable proposition and therefore I wrote this letter. I am surprised that, before the debate on the closure of the Dockyard, the report commissioned by the Gibraltar Government is to remain confidential and cannot be quoted. As this might inhibit me in what I may in conscience feel I might have to say publicly, I consider it is in the interest of democracy and of Gibraltar that I do not read it under such conditions. There is always a valid reason why reports should remain confidential in the kind of closed Government you are leading. The Preece, Carcew and Rider Report on the Electricity Undertaking is a glaring example of such oppressive attitude to which I so strongly object. If by the time of the debate you can find it possible to do away with your suppressive attitude, kindly let me know and the information it contains may enable my contribution to the debate to be better informed. That Mr Speaker is what I thought. The battle that I have been waging for a long time, on the question of letting

people know what is happening, did not start when I went and wrote this letter to the Chief Minister. If you look at the records of this House, I have asked for the reports to be made public and certainly made available to Members of both Houses of Parliament. I also know that Mr McQuarrie, the Leader of the Gibraltar Group, has asked in the House of Commons for the Reports to be made available. The answer given to him there was that it was up to the Government of Gibraltar. The Government of Gibraltar has not seen it fit to do so. Mr Speaker, this is rather a terrible situation for the Government to get itself into, in that nobody knows, here or in England, whether this wonderful package deal that the Chief Minister has brought back from the United Kingdom is good or bad. He thinks it is very good and I hope he has not stuck his neck out too much, because in his statement he says that this is not only the best for Gibraltar but it's good in itself. I think now that he has already said that it is good in itself. Although I argue against it now, I do pray that it does work in the interest of Gibraltar and that it does turn out to be alright. However if it doesn't, Mr Speaker, and in my view it will not, then the British Government will turn round to Sir Joshua Hassan and say: "Mr Chief Minister, you came, you accepted it and you even thought it was good in itself. Not only the best for Gibraltar, but good in itself". It is very strange that the Chief Minister, who has always been known for the evasive way in which he tackles every issue, should have been so definite on this one, on which all the Reports that I have read prove that there is nothing about them at all that shows that it is feasible. Yet he goes beyond all those reports and says: "I know its good in itself, it is the best we can have for Gibraltar". I don't know why. Is it that he was seduced by the Prime Minister or is it that he was coerced politically by the Prime Minister? She is known to be capable of doing both.

MR SPEAKER:

I will ask you to withdraw your last words.

MAJOR R J PELIZA:

Alright, I withdraw it. I can see nothing wrong in what I have said.

MR SPEAKER:

You have insinuated that the Prime Minister in the United Kingdom is known for seducing people.

I will remind the public gallery that as a basis of democracy it is right that they should attend the sittings of the House of Assembly. They are here as spectators and not to either make a comment or interrupt the proceedings. I am sure that it has been done purely out of ignorance or emotional stress but I would ask them to realise the reasons why we are here. We are discussing a very important matter and Members must not in any manner or form be inhibited in carrying out their duties by the fact that they are subject to comment or pressures from the Public Gallery. I will not tolerate it, although I am sure that what has happened has been done without intention, but it cannot be tolerated.

MAJOR R J PELIZA:

I was talking, Mr Speaker, in a political sense.

MR SPEAKER:

Yes, but one must be very careful that the political sense does not have a double meaning.

MAJOR R J PELIZA:

One knows very well Mr Speaker, that no other interpretation can be taken. I mean, that would be very far fetched and certainly not what I have said. It is a fact that Mrs Thatcher has a very persuasive personality. There is no question about it. Whether this is put one way or the other to stress the fact, Mr Speaker, it is so. That is because, I am working towards the situation, and that is because the ground was not prepared; the Chief Minister found himself cornered and has now cornered Gibraltar. That is the problem. Gibraltar now being cornered, it is going to be quite a job getting out of it unless, as my Hon Friend here has said, we have a general election. I hope that the Chief Minister, out of what I would consider to be a true political, democratic way of sorting things out, does the proper thing. If he wins the election then of course he can be sure that Gibraltar, will then have to unite behind whatever he may have done. As far as I am concerned, that is that and I shall put my full weight to see that his conclusions come to a good solution. Whilst I believe, as I do, that this cannot lead to the sort of wonderful future that seems to be indicated by what one reads in certain reports, whether there is going to be as much unemployment as there is now, and, in fact, that it will be even better than it is now in that, Mr Speaker, I am not so childish as to believe other people. Perhaps the Chief Minister has believed when everything points to something different. Mr Speaker, I have here, the Wall Street Journal and it refers to a Portuguese Shipyard ending a strike by offering to pay half of unpaid wages. The date of the paper is Friday 22nd. It is a report from Portugal: "Workers striking at the Lisnave Shipyard to protest pay cuts, agree to return to their jobs in exchange for some back wages". They had not been getting wages in the past. "The 6,400 employees and the shipyard owners, Lisnave Esalieros Naval de Lisboa, agreed on 3 months truce while the company seeks financing to meet the payroll. The workers were promised 50% of the wages owed to them for May and June, when they were paid only half their pay. They stopped working three weeks ago, although most continued to show up at the shipyard for days. The agreement didn't set strike pay levels, however the Company posted a 45 million dollar loss last year and said it can't cover it's payroll without financial help". That Mr Speaker, is Lisnave in Lisbon, 22 July. If we extend ourselves, I can tell you from the same Journal since I read it not so long ago, the shiprepair yards in Holland, in Belgium, in Germany, all of them have been cutting down their forces, all of them are being subsidised by their respective Governments. If we come nearer, to Cadiz, the situation is not better, and if we look nearer here we get news in the Telegraph - and I won't read it, Mr Speaker, because most people have probably read it on Monday - that

they intend to open one here in the Bay. So, surrounded by people who may finish up by working for a rice bowl, we in Gibraltar are going to try and maintain the same sort of standard, that we are enjoying today, with commercialisation. I fail to understand how that is going to be possible. I say, I wish it was true. How is it then that we have faced this business on how prosperous we are going to be. I haven't seen a sound market research. I haven't seen an analysis of where all the ships that are going through the Straits are now going for their repairs. The reasons why they are going for their repairs there, how much they are paying for the work that is being done, and what is the degree of satisfaction. Nothing of this sort has been done. If someone had made that market research and had brought it to me and said: "Look, we can offer those ships that go, say, to New York a, b, c, d, and therefore I think it would be more convenient for them to come here. Price-wise, it would be better for them, so I think that we would have a chance of capturing, say, ten of those, twenty of those, fifty of those etc, therefore I think that we do have a viable proposition. Furthermore, as obviously the firms that are now being used, will notice that they are losing established clients, they are going to react to keep the business. We can keep all this in reserve and then if they do that, we will do this and in this way we can go forward". Having said that, I will say yes, commercialisation has a chance. But to tell me: "(x) number of ships go through the straits of this type or the other type and I believe that this time we can get so many and the other time we can get so many and we put them all together and we are going to be viable". That to me Mr Speaker, is very short of being a pipe dream and I would not buy it and the proof Mr Speaker, that of the 60 firms that were interested, notwithstanding they were getting good capital, £28m from the British Government and guaranteed work of £4m or £11m is a good proposition for any businessman who is prepared to put in, say, 10% of that or 20% of that, it is jolly good, isn't it because you are getting twenty million for every two million you put in, a good proposition, we have not found one. Of the sixty we were left with six, of the six three are supposed to be very small, of the three left only one was thought to be capable of doing it. On commercial grounds it is clear that that is not the sort of proposition that any businessman, unless he has lost his senses, would put any money into it, except that they have, for certain, business people who may already have room in Gibraltar and were prepared to put in a bit of money, perhaps out of patriotism and the fact that they are more interested perhaps to come outside. There is perhaps a case for that kind of business in Gibraltar. That kind of business has got to be more realistic that all the others because that kind of business knows exactly what it is doing, and it is no doubt to sell. Mr Speaker, I have had a look at Appledore. The report is silent on the question of their financial situation. We don't know what kind of a company it is. I made it a point of finding out and I have, Mr Speaker. From the financial statement for the year 30 September 1982 in its International Directors' Report, Appledore is very much like an empty shell, very little. Therefore they are not putting in any money. They are getting £300,000 this is all disclosed I am not disclosing any secrets, £300,000 pounds a year of fees regardless of whether the company makes money or not. Therefore, Mr Speaker, it is very simple, the company is very difficult to understand because it has a lot of companies all over the place and it is very difficult to understand the statement. One thing I can understand and that is that as regards A & P Appledore, the appropriate profits carried for-

ward on the 30 September, 1982 was £257 and 395 pence. This was for the whole company. I am sorry, £267,395. That is a fact. There are provisions here stated. For instance, there are £222,000 which could be taxed and which they have not included in the sums because they have put aside into an employees trust over £300,000 - and by the way, the employees are mostly directors - which is subject to income tax. Then they would have to reduce the amount by £222,000. There is also a possible claw-back, based on the stocks, of over £50,000 which again, if they have to pay tax, not only would the £50,000 be less, but also £100,000, which obviously is stock that was not there if one calculates 50% tax on that. So, Mr Speaker, we look at the assets, and these are about just over £300,000. They consist of a lease, cars, of a computer, and a word processor but that is book value, Mr Speaker, book value. This means that if we have to pay at the end of the day there will be no money there. One can understand that because it's essentially, as you might say, a consultant company and that is what they are supposed to do. I am not blaming them. They are doing what is in their interest to do but that is not necessarily what is in the interest of Gibraltar. It is rather interesting for the Chief Minister to say then, in his Report, that the British Government is putting its money where its mouth is? The British Government is trying to save money by putting money into commercialisation so that they are able to disengage from the Dockyard. I don't know how the Chief Minister can come to those conclusions. The British Government, it is quite clear, want to disengage. They don't want to pay the £13m a year that they are paying now. Therefore, they believe that it is a good proposition to pay £28m plus 14, say £40m redundancy money to Gibraltar, not to the workers, to Gibraltar and that is the end of that. After that we have certain commitments which are not more or no less than the commitment which I think the Chief Minister refused when he had to choose, literally, he had to choose commercialisation. What was the alternative? The alternative, Mr Speaker, as I read from that statement when he talks about budgetary aid, was that a pistol was pointed at the Chief Minister: Either you take commercialisation or there is nothing else. If there was something else, I would like the Chief Minister to tell me what it was. Now what was the something else. The something else, obviously, was "support and sustain". Now we cannot believe, and I am sure the Chief Minister will agree with me, that the British Government is going to sustain and support Gibraltar to the tune of the standard we have today. I don't believe that it will. Therefore what will they do? They will say, "If eight million pounds or ten million pounds is what is required to get things as they are going today, that is too much money". That is what we mean by budgetary aid. We know that there are lots of Government Departments which are inflated, we know that. My God, they are going it in England. We shall find a few inspectors coming round, having a good look and making things difficult for everybody because they are just not going to pay what we are paying for our own departments. Certainly they are not going to pay one million pounds extra to the Electricity Department. I can tell you that. It is obvious therefore, that support and sustain was the other alternative that the Chief Minister had because he probably was told: "We are closing the Dockyard willy nilly and either take this or leave it but otherwise that is that". This is where I think the Chief Minister went wrong. Well I think he went wrong at the beginning. I think it went wrong because he never united and mobilised Gibraltar which is what was fitting. Basically it is this, when

we needed a Churchill we got a Chamberlain. That is the position of Gibraltar today. The Chief Minister lacked the courage to do so and I hope I can give him some today so that he does go to an election because this is the only way that matters can be put right. I do hope that he gets that courage to do it. He did not have the courage to say: "Well that is not the way that I am going to see this problem. It's most unfair to Gibraltar to put it in the position that you are putting me now!". If that is the case, I am going to openly say so. I am going to say: 'Commercialisation is not a viable proposition, as far as I know from the reports that I have, that I have paid for myself, and as for the other alternative that you give me, I don't think it is fair that that is the position that the people of Gibraltar should be put into after giving so many years of loyal service to Her Majesty's Dockyard. This, of course, was there, Mr Speaker, let us look back to how the whole thing started. In June 1981 the White Paper came out and said that, well, maybe some day it would happen. Chatham had the closure date for 1984, Gibraltar was more or less indefinitely until they found a viable proposition. Then in November, through a question in the House of Commons, the Government of Gibraltar got to know that Gibraltar was closing in 1983. That is the way that we got to know about it. There was consternation and incredulity, to use words that were used by the Government in those days. Quite rightly, because that is certainly not the way to treat Gibraltar and I certainly would never have stood for that. What do we do after that. Immediately Members of Parliament, on their own, took it up. I, of course, immediately started writing. I can assure the Chief Minister that I must have written over two thousand letters. The point is that immediately the Members of Parliament started putting up early day motions. I can read one, which I think is perhaps very interesting, by Patrick Cormack and Keith Speed, who make it quite clear in their amendment that they did not want the Dockyard to close. They put it as follows: "That this House deplures the proposals to close the Gibraltar Dockyard and after the outstanding loyalty displayed by the people of Gibraltar under years of Spanish blockade and calls upon Her Majesty's Government to reconsider its decision, in view of the strategic importance of Gibraltar and of the effects on employment which the closure will have". That was the time, Mr Speaker, to have followed the whole matter up. I have said it time and time again in this House. I said it every time that I possibly could edge a word in: "Lets make the Gibraltar Tourist Office into a centre of information for Gibraltar. Lets get Members of Parliament really interested. Lets have a leaflet published". The reply I got there, which I think was very mean, was: 'He wants a job in the UK'. I have plenty to do, Mr Speaker, in the UK. I do not need to do that. However, I think that it is very very sad that we should have missed that opportunity because I am sure that if we had done that then and if we had pursued it, united as we did the Nationality Act, today we would not be facing the terrible situation that we are likely to face. We lost that, Mr Speaker, and the most we did was then in March 1982 when we wrote a memorandum, on which we have been talking earlier today, to the Secretary of State to which, I personally, have not seen a reply. I do not know whether there was ever a reply. It shows the state of affairs that apparently nothing happened. If there was a reply, the people who signed it - and certainly I didn't get to know - and if there was no reply, nothing was done to get it. I would like to read the important paragraph of that memorandum because it was not just to extend

the time of the Dockyard. I will read it, it is number 18: "More specifically, we ask that the closure and the action preparatory thereto be deferred and that a continuing programme of naval work be provided until such time as Gibraltar has had a fair and reasonable chance to identify, and in consultation with the British Government, establish a viable economic alternative. We cannot suggest a precise period of extension because we cannot know how much time would be required to achieve this objective. We must however make it clear that we are not seeking deferment for its own sake or for any indefinite period. Indeed we are advised that if and when it is established that a commercial repair yard would be feasible and viable, it would not be in Gibraltar's interest to delay a phased transition unduly". I certainly agree. Nothing would I like to see more than for Gibraltar to become economically independent. That would almost be Gibraltarian sovereignty. That is what it would be but do you believe that the Spanish Government, for one moment, is going to allow that to happen when that is tantamount to their losing their claim to Gibraltar unless they use force. Whilst Britain is involved with Gibraltar there are overriding matters of western defence that we have seen before and, in fact, it is stated in the Lisbon Agreement that the Lisbon Agreement was in interest of Western defence and all the rest of it. There might be other national interests whilst Britain is a party and has got the purse strings. I think the Spaniards have a hope that, perhaps one day, they will force Gibraltarians to negotiate. In fact, I will read a letter that I sent to Mrs Thatcher last Sunday which I would like to read with your indulgence, because I think it is important enough to have it recorded in our Hansard.

MR SPEAKER:

If it is relevant then most certainly.

HON MAJOR R J PELIZA:

Yes it is, Mr Speaker. I will read the letter because there I will quote what I was going to say. It is the 24th of July and I managed to get someone on the plane who posted it from London. "Dear Mrs Thatcher, Nothing is known of the negotiations in progress but the comings and goings of Ministers indicate that, whilst the decision to close the Naval Dockyard is unfortunately not likely to be reversed, a package deal with a commercial dockyard as its centrepiece is about to be finalised. Your reply to a question in the Commons on the 9th July, I quote" - this is what she said - "We believe that a commercial dockyard provides the best future for Gibraltar, points to this. Forgive me if, unlike you, I fail to understand why a commercial dockyard should provide the best future for Gibraltar, particularly when Mr Lamont, your Minister for Trade and Industry, said on the same day in Parliament, and I quote: It is the Government's view and also the view of the Corporation that it ought not to remain long term in ship repair. It is undoubtedly the situation that there is too much capacity for ship repair, unquote. In none of the consultants reports paid by ODA is there information based on a sound market research giving a detailed analysis of where the

ships passing through the Straits, which are potential customers, are being repaired at present, what makes it convenient for them to make use of those yards, the cost of the repairs and the degrees of satisfaction. Nor is there the counterpart information to show that Gibraltar will offer them something better than they are getting. Nor is there information on the margins Gibraltar will have on reserve to regain the business gained once the yards lose their established businesses and react commercially to regain their lost clients. The £30m or \$40m experiment is being undertaken on the rough and ready assumption that x number of ships pass through the Straits and that a sufficient percentage of them will be attracted to make the enterprise viable. No wonder private investors have shown no interest to participate. It shows that, on a commercial basis, there are no reliable facts and figures on which to build a repair yard as the mainstay of the blockaded economy of Gibraltar. On the political front, the situation is even more precarious. Spain continues to apply measures to undermine the stability of the economy for which Britain is responsible under the Constitution. She has been doing so since she forced the fish cannery to close and followed it up with a multitude of restrictions in the bay, air and border. They have failed so far because they have been unable to interfere with the economic base of Gibraltar, the defence spending, on which primarily the Dockyard provides the income with dignity that gives the community self respect and a livelihood. The economic consequences, if the income from the Dockyard is cut, will raise Spain's hope of winning their economic war. I quote from a paper written in Spanish by Senor Antonio Gomez Lopez, a Spanish Government official, in February, 1983, for the Revista de Economia, and the translation is mine, quote: Britain's will to negotiate, and therefore to compel the Gibraltarians to negotiate will be made clear if the announced reduction of British aid to the Rock, which has been intimated with the possible closure of the Dockyard, is effectively sufficient in the measures so taken, unquote. It is unlikely that Spain, with under employed repair yards in Cadiz and an unused one in the Bay of Gibraltar with thousands of ship repair workers without jobs in the area, is not going to compete fiercely, with Government financial and diplomatic backing, to take away our potential business. In the light of past experience it would be naive to think otherwise. I have no Foreign Office intelligence, from the consultants' report or other sources, of possible measures the Spanish Government could take to make the best of the closure of the Naval Dockyard nor whether Her Majesty's Government intends to retaliate by meeting subsidy by subsidy, inducement by inducement or coercion by coercion. Spain is said to have used such tactics to attract ships from Gibraltar to Ceuta and Algeciras. In the past, retaliation has been ruled out and substituted by the support and sustain policy which has given Spain a free hand with the restrictions. It does make sense both economically and politically to retain the Naval Dockyard for the present, to phase into it commercial work coupled with the productivity improvement outlined in the report and to simultaneously encourage new developments and industries planned to be viable in a fully open border situation when Spain, in accepting the Treaty of Rome, has to respect the rights of the people of Gibraltar. It would be tragic if you, Prime Minister, the Liberator of the Falkland Islands were to give comfort, hope and encouragement

to the Spanish Government to intensify their campaign to break the will of the people to remain British. My eleventh hour attempt to persuade you to re-examine the situation may not succeed but at least I have the satisfaction of doing hitherto what is within my power democratically possible as an elected Member and a former Chief Minister". I felt, Mr Speaker, that it was my duty, since the Chief Minister had in no way consulted the Opposition and in fact having rejected at the last moment my Hon Friend, the Leader of the Opposition, who has been bending backwards all the time to try and act jointly with him - certainly at his political expense, I could say that. - At the last moment when he was going to see Mrs Thatcher he was told he could not go notwithstanding that a few hours before he had been invited to do so.

HON CHIEF MINISTER:

If I may, I would like to say that the Hon Member should know better. The Leader of the Opposition has been acquainted of the situation by the Governor and I hope he will be able to say that that was not the way it happened.

HON MAJOR R J PELIZA:

No doubt, Mr Speaker, my Hon Friend has got the last words and he can expand on that. All I can say is that, to my knowledge, this has happened and it is very, very regrettable that the Leader of the Opposition was not there because perhaps, in counsel with the Leader of the Opposition himself, it might have been possible to find another formula other than the take it or leave it one with which he was presented. I think that this is lack of considerable statesmanship on the part of the Chief Minister who has been in office for nearly thirteen years. I think that there is only one explanation, that it is both the mental and physical fatigue of being in Government for so long. I cannot think of other explanations for such a behaviour, Mr Speaker. This is why I think it is so important that an election should be held as soon as possible. The Leader, Mr Speaker, of the AACR, Chief Minister for many years, has finally led Gibraltar to the cliff. All that remains is for him to tell the people to jump. If they do as he says, as they have been doing up to now, I think that will be the end of our community. For his sake, Mr Speaker, I hope that that doesn't happen. I think it would be a good idea if there was an election and I have reasons to tell him because the fact remains that we are in the most critical situation that we have ever found ourselves in. Mr Speaker, I therefore have no hesitation in commending and supporting the amendment to the motion in the name of my Hon Friend. I do not myself think that any of those points are incompatible. In no way are they incompatible, Mr Speaker, because, I think, we deplore lack of consultation which I do not think even the Chief Minister can say, he might have a reason for not having done it but, certainly he cannot say that there were consultations. He may have a reason but he has not given it. That is the tragedy, that this Government does things without giving any explanations. He may have very good reasons.

I would like to hear why he has not consulted the Opposition when, in the first place, he said he would. To suggest that bringing the motion to this House is consultation, no. He is asking us to give him a rubber stamp. He thinks that the Opposition is a rubber stamp. I think that obviously he knows that that is not the case. That, Mr Speaker, there is an obligation on the part of the British Government there is no doubt. That we welcome a deferment, yes I hope that it will give time if we are elected, if there is an election. Although we cannot make enough noise outside to persuade the Government to change their minds, well, perhaps we stand a chance to try and get those reports made public. Perhaps even now, if the Members of Parliament were to know what the consensus of the reports, when read by intelligent persons, really is, Mr Speaker, perhaps they will realise that Gibraltar is not getting a good deal at all. Finally, Mr Speaker, I think that it is very much called for for the Government, at this juncture, to go to the people and find out if they are in agreement. This is a democracy, as I said before, and I would be the first one, Mr Speaker, to support the action of the Government then.

HON A. J. CANEPA:

Mr Speaker, I am going to be very brief at this stage because there are just a few points on the amendment which I have made a note of and which I want to reply to and also in respect of the intervention of the Hon Major Peliza. In the first place, it is not correct to say that there was an invitation to the Leader of the Opposition to accompany the Chief Minister to see the Prime Minister. What there was talk about and what the Leader of the Opposition was asked about was whether he would be able, if the Chief Minister invited him, to accompany the Chief Minister to see the Foreign Secretary, not the Prime Minister. The question of the Prime Minister had not arisen at that stage.

HON P. J. ISOLA:

If the Hon Member will give way. The only two people who can give evidence on what has happened is myself and the Administrative Secretary who telephoned me at 7 o'clock at night on Tuesday 21st June, an hour and a half before I sent my own letter to the Chief Minister in reply. What I was told, and I hope Hon Members will accept what I say, was that the Chief Minister had enquired whether I would be prepared to go to London with the delegation the following week. I was not told who we would be seeing, absolutely right, there. Then I told the Administrative Secretary that I would have to consult with my colleagues. I consulted with my colleagues and they said that on a matter as important as this, despite the current controversy, on letter-writing, I should go. I telephoned Mr Pitaluga at about half past seven that Tuesday evening and told him that I accepted the invitation to go to London, whereupon he told me: "We will see you in London next Tuesday" - because he was going off for a dinner - and I said: "Yes, I am not quite sure whether the invitation will stand once the Chief Minister gets my letter". That is what happened and I am sure the Administrative Secretary will be able to confirm.

HON A. J. CANEPA:

I do not dispute that for one moment. That is his version of a telephone conversation but it does not alter the point that I am making. It was not in respect of a visit to the Prime Minister, it was in respect of a visit to see the Secretary of State for Foreign Affairs. The situation subsequently altered completely. Mr Speaker, the Opposition in Gibraltar are much more involved in, up to a point, the business of Government in respect of the reports that we make available to them. Far more are they involved here in the House and they get far more information than what the Opposition get in the United Kingdom. I have not a shadow of doubt that the Opposition would never get to see the kind of reports that have been made available here in Gibraltar to the Opposition recently. I don't know whether there is any point, in any case, because according to Major Peliza, he said that he had not seen a sound market research. Either he doesn't know what he has seen, and he should if he has read the report, or, I don't know. Surely the reports that he got were

HON MAJOR R. J. PELIZA:

Will the Minister give way.

HON A. J. CANEPA:

I will finish in a moment. The reports that he got were the consultants reports, Coopers and Lybrand. He got that and he got a report by A R Belch and Associates. These reports contain a market research. Then, he doesn't know what a market research is, I am sorry to tell him. Moreover, in the evaluation of the proposals of the potential operators, the consultants also looked at the market research of all of these operators and that is why, in fact, the consultants recommended the requirement for naval work in the initial years, precisely to help in the question of viability. I will give way now to the Hon Member if he so wishes.

HON MAJOR R. J. PELIZA:

First of all I would like to tell the Minister that the best way of resolving this argument is by making the reports public to start with. Secondly, I suspect that a lot of what is in the reports is just a lot of words which need not be there. The important thing where are the ships being repaired now, why, at what cost? What is the degree of satisfaction? Of those, how many can we attract and then if we do how can we compete once the feared competition starts from the established yards? There is nothing like that in the reports, nothing at all.

HON A J CANEPA:

Appledore, in the market research which they conducted, had to analyse those factors. I think that what the Opposition are trying to do is to throw a general air of despondency. Despite the question mark about viability, about which I shall have more to say in my intervention on the substantive motion, the fact of the matter is, and the Opposition have chosen to ignore this, that the consultants and even Mr Casey, the consultant we commissioned out of taxpayers money for the £20,000 report, that the Hon Member has referred to, even Mr Casey recommends commercialisation and the sooner the better.

HON P J ISOLA:

If the Hon Member will give way.

HON A J CANEPA:

No, I won't give way.

MR SPEAKER:

No, with respect, you will have the right to reply. Perhaps this would be a convenient time to recess for approximately twenty minutes for tea.

The House recessed at 5.30 pm.

The House resumed at 6.00 pm.

MR SPEAKER:

I will remind the House that we are still on the amendment as moved by the Hon and Learned the Leader of the Opposition and that any Member who has not spoken to the question is free to do so. Do I take it that there are no contributors to the question before the House? I will then call on the Hon and Learned the Leader of the Opposition to reply.

HON P J ISOLA:

Mr Speaker, I am surprised that no Government Minister has replied in substance to what has been said on this side of the House in support of the amendment proposed. No explanation has been given by the Hon and Learned Chief Minister for the lack of consultation there has been. No indication has been given as to whether the Government will accept the amendment proposed. I suppose that the reason for this is the anxiety of the Government to finish this debate, get it over with and also, I suppose, the desire of Government Ministers to speak on the substance of what I have said, and what my Hon and Gallant Friend has said, afterwards in the general debate when we will not be able to reply to what is said in argument. This, Mr Speaker, only

serves to highlight the inadequacy of the process that has been thrust upon this House by the Hon and Learned Chief Minister and his Government in calling this process that we are going through consultation. It appears that I am to say what I feel on the motion, I am to give my reasons as to why this side of the House disagrees with the motion, I am to suggest amendments to this House to the motion proposed by the Hon and Learned Chief Minister and I am not to be able to answer the reasons that the Hon and Learned Chief Minister will give why he is rejecting this motion, if he is, until the end of the debate. That, to me, shows very clearly indeed that the Gibraltar Government is thrusting this agreement down the throats of this House without any meaningful discussion. I think that is a matter of great regret. Mr Speaker, the only point of substance or the only point that appears to have been raised, and strangely enough by the Minister for Economic Development, has been on the question of the recommendations of the consultants, all of whom have said: "Accept commercialisation". At least one of those reports was there on his table, he had seen the report, when during the budget he expressed serious doubts about viability and when the Hon Major Dellipiani said: "The Naval Dockyard is just not viable". It was there when the Hon Financial and Development Secretary said that he had serious doubts about the economy generally as a result of the closure of the Dockyard. What has happened, Mr Speaker? Is it that Government thinking has been exactly like that of the consultant, that it is a question of take it or leave it? You take commercialisation, whether it is viable or not, because we are going to close the Dockyard and that is it. That is why the Government is accepting commercialisation? That is the only interpretation I can put to the remarks made the Minister for Economic Development because, in the absence of publishing, as we seek in our amendment, the contents of the consultants reports, people cannot see or will not realise or will not appreciate how misleading the Minister for Economic Development and Trade has been in saying that they all recommend that commercialisation should be accepted. Of course they do, because it is better to have a commercialisation going for two or three years with British Government help and financial assistance than have a closed Dockyard. That is basically what they say and if that is not what they say, publish the report and let people make their own judgement. That is the problem. The problem is that the Government, Mr Speaker, because it has gone it alone, because it has made its own conclusions and not sought the assistance of anybody else in Gibraltar and not formed a Gibraltar view on the matter, has not stuck to its original guns, on which it has had all party support, that the British Government stated in the Defence White Paper that if they wanted or if they decided to close the Naval Dockyard they would give consideration, in consultation with the Gibraltar Government, of alternative ways of supporting and sustaining Gibraltar. When you talk of supporting and sustaining Gibraltar, in the context of a Naval Dockyard which is the case of the economy, you are talking, Mr Speaker, of a very big alternative. Not just one that is thrust upon us because either you take it or you take the consequences of a closed Dockyard. I am amazed that there has been no real response from the Government benches to the serious criticism that has been levelled at the agreement and incorporated in the form of an amendment to the motion, precisely to allow discussion on the matter, precisely to allow

full discussion on the matter and to enable me to reply to what the Chief Minister has to say to it but which I will not be able to do unless we can think up another amendment. We cannot because he has the last word. He just stays sitting down, Mr Speaker, and at the end of the debate he has his say and then he will report back to London: "We have had full consultation with all the parties in the House of Assembly but, incredibly enough, they have not agreed with the deal that we have made". That is the pity, Mr Speaker, and it is a tragedy because the question of the commercialisation of the Dockyard, the issue of commercialisation is the biggest issue that we have had to face in Gibraltar, in sheer economic terms, after the Spanish economic blockade in 1964 and their closure of the frontier and the effects all that had on the economy then. I just cannot see, Mr Speaker, how, having regard to what the Chief Minister said on the 22nd February, 1983, he has not risen to explain to the House on my amendment why he has had no consultation with this side of the House. We have not, Mr Speaker, even been told that the Government is going to oppose the amendment. We make the assumption because it would seem to me quite incredible that they should vote for the amendment without the Chief Minister at least getting up and saying why they are voting for the amendment. So the situation is, Mr Speaker, that the process of consultation is even worse than that envisaged by the Hon and Learned Chief Minister.

HON CHIEF MINISTER:

If the Hon Member will give way. I propose, according to Standing Orders, as leader of the House to conduct the business in the way I want. He cannot, as Leader of the Opposition, tell me how I should run my business. He can run his own in the way he wants to and make as many replies as possible but we are the privileged ones because we are the Government and it will be conducted in the way I think best. All the matters that have been raised will be answered in their proper time, not with another amendment and another amendment. We will be here until midnight tonight and get on with the business and leave all this nonsense. The Leader of the Opposition well knows that nobody, no decent Government, could accept that amendment asking us to go to the country or to do this or that. These are only tactics and I want to show them for what they are, tactics. I will not fall into the trap of giving him more and more material. He can do that with all the other amendments. I give him notice now that all the amendments he or any of his Members bring will be voted upon against if there is no merit in them, as in this one, and no discussion will be taken.

HON P J ISOLA:

Mr Speaker, the threat of sitting until midnight, I don't know why that is made necessary. I don't know whether that has anything to do with the fact that certain Government Ministers want to get away from Gibraltar soon but I think, Mr Speaker, it is extraordinary.

HON CHIEF MINISTER:

In the days of Major Peliza we used to sit here until midnight.

MR SPEAKER:

Order, order.

HON P J ISOLA:

I don't want to prolong proceedings more than is necessary, Mr Speaker, and I see no reasons really for moving any more amendments. I think we have moved a comprehensive amendment to the motion that puts our position clearly. It is amazing, Mr Speaker, I cannot say anything else, that the Hon and Learned Chief Minister should assure this House on the 22nd February: "We want full consultation, we want full discussion", and he comes to this House and for the first time in my experience, Mr Speaker, on a debate of this importance where inevitably there had to be an amendment to a Government motion on a big issue which is not agreed to by the Opposition, where it is inevitable that an amendment is moved, that the Government does not reply to it even. It shows the contempt with which the Hon and Learned Chief Minister deals with this House. It is not the first time he has shown this, Mr Speaker. It is not the first time he has shown this, since we have had this problem since June 1983 when he refused to even tell the House what had been going on in London. He refused even to tell us that the British Government had said that they would close the Naval Dockyard and we have had to get that information from the Prime Minister in the answers she has given in Parliament. We have had to get that information from Baroness Young, writing to MP's. We have had to get that information from the Foreign Secretary's letter to me, but from the Chief Minister we have not had a scrap of information and that, Mr Speaker, is treating this House with scant courtesy. Here we have got an amended motion in which I thought my contribution was argued reasonably I thought I put the points that had worried us and they are serious points. We are not going to be bamboozled into accepting a situation just like that and I would have thought they merited some reply, if not from the Chief Minister, from another senior Government Minister. That, Mr Speaker, is the essence of democracy, argue and discuss. The Chief Minister himself said on the 22 February that it would be terrible to make a decision as big as the Naval Dockyard and its future without some attempt at agreement between both sides of the House. He himself is the first one who refuses to follow that procedure. I have to remark on it because the person who is employing tactics is not the Leader of the Opposition, who has put an amendment to the motion showing his discontent. The person who is employing tactics is the Hon and Learned Chief Minister himself, who wants to speak only at the end when nobody can answer him and not in the middle of this debate when I would have had an opportunity to do so if his arguments merited reply. I am sure they would have merited some reply and I would have had an opportunity, Mr Speaker, to reply to him.

Now it seems that he will have the last say, he will make his speech, nobody will be able to reply to him because of the procedures of this House. Is it being suggested, Mr Speaker, that because they have a majority and they have a Government then they need not talk, they need not explain, they just vote us out of existence? Is that the consultation that he has had with the Prime Minister? Is that what Mr Stewart meant when he said in the House of Commons that the Hon and Learned Chief Minister was proposing a motion to the House that afternoon to get approval? Is that what the Minister for Economic Development thinks of consultation and approval, that they need not reply, they need not say a word, they just vote us out of existence? Well, fair enough, if that is the view.

HON CHIEF MINISTER:

If the Hon Member will give way. This is a harangue in reply to a motion that has not been discussed and he is having the whole way. If he has started that way he will get more resistance because he cannot have the floor all the time. He is frustrated, I know the Leader of the Opposition for so long, well, not so long, but anyhow for a while, and he carries on saying the same thing and the same thing and we are not prepared to put up with it, as simple as that.

HON P J ISOLA:

Yes, Mr Speaker, I am coming to the end and may I say that at least I have got the Hon and Learned Chief Minister to say something in answer, if only in anger. At least we got him to say something.

HON CHIEF MINISTER:

I am just saying that you are keeping the floor all the time. That is all you do.

MR SPEAKER:

Order.

HON P J ISOLA:

There he goes again. Mr Speaker, I do not think I should give way anyway, should I, because the Hon and Learned Chief Minister has had an opportunity to reply which he has declined, of course.

MR SPEAKER:

Will you speak to the Chair.

HON P J ISOLA:

I will speak to the Chair, Mr Speaker, I thought I was looking at you when I said of course. That is the reality. Mr Speaker, there is nothing we can do about this obviously because of the rules of the House. However it is a matter for great regret, Mr Speaker, that the Government has decided to consult the House in the way that they have done and further has deliberately stopped debate across the floor by deciding not to speak on the amended motion and therefore eliminating any possibility of their arguments being demolished. It looks as if the debate must go from this House to outside this House, Mr Speaker. It is a pity it has to be that way. Mr Speaker, I commend the amendment to the House.

MR SPEAKER:

Is a division wanted?

HON P J ISOLA:

Could I ask, Mr Speaker, if we could take clauses 1, 2, 4 and 5 together and 3 separately on a division? I think we should vote separately on: 'welcomes the deferment of the closure of the Dockyard for one year'.

MR SPEAKER:

Most certainly, as I mentioned at the beginning of this debate on the amendment, we can most certainly take two votes.

Mr Speaker put the question on the terms of the Hon P J Isola's amendment and on a division being taken on paragraphs 1, 2, 4 and 5, 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 Loddó
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 Hon Members abstained:

The Hon D Hull
The Hon R J Wallace

Paragraphs 1, 2, 4 and 5 of the amendment were accordingly defeated.

On a division being taken on paragraph 3 of the Hon P J Isola's amendment, the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 following Hon Members abstained:

The Hon D Hull
The Hon R J Wallace

Paragraph 3 of the amendment was accordingly defeated.

MR SPEAKER:

We have now the original motion as moved by the Hon and Learned the Chief Minister to which, of course, the Chief Minister, Mr Isola and Mr Bossano have spoken. Are there any other contributors?

HON M K FEATHERSTONE:

Mr Speaker, I do not want to make very much comment on either the Hon Mr Isola's speech or the demagoguery of the Hon Major Peliza except to comment for the Hon Mr Isola's information that, of course, in this motion, which is a Government motion, the Chief Minister will have the right to be the last speaker. I would remind the Hon Mr Isola that over the past three years

we have had quite a number of motions emanating from Mr Isola and he has had the privilege of being the last speaker and I feel that

HON P J ISOLA:

Can the Hon Member give way, I am not complaining about that at all. Let me assure the Minister that I am not complaining about that. Mr complaint is not that he has got the last word, of course he has the last word. My complaint is that he has not spoken to the amendment. I do not deny him the last word, of course he has got the last word, I cannot deny it.

HON M K FEATHERSTONE:

I understood it that the complaint of the Hon Member was that the Chief Minister would say a number of things in winding up to which the Hon Mr Isola would not be able to make any reply. As for the Hon Major Peliza, he seems to be very hot under the collar about reports which are Government reports and are confidential but I think, if my memory serves me right, he was not so hot under the collar when the Opposition to him, when he was Chief Minister requested a sight of the Beeching Report and they were not even allowed to see it even under the agreement of confidentiality at all. It was just denied to them. So, sometimes it is the pot calling the kettle black. Sir, I said in February that the British Government had gone a long way down the road towards closure of dockyards in consonance with their new defence policy. They had stated that they were closing Chatham Dockyard, they were all but closing Portsmouth and that Gibraltar was also on the list. I said at the time that I did not see that there was very great hope in this situation being changed but that I was in agreement that once again we should knock at the door to see if we could get some change in the decision that the Gibraltar Dockyard would close and that one would hope we might have a successful result. Well, Sir, we did knock at the door and unfortunately the answer was still the same, the Gibraltar Dockyard had to close and we were more or less told that the date was going to be at the end of December, 1983. We were told at the time that the British Government was willing to give generous help if we were willing to accept commercialisation and that this help would be basically in three forms. The first was that a certain amount of money would be put in to refurbish the Dockyard and bring it up to modern standards. The second was that a sum of money would be available to help any new operator in the first two or three years to underwrite losses and the third would be a measure of definite work from naval shipping so that there was a chance for the new operator to start with a modicum of work already in his books. Sir, commercialisation, according to Mr Bossano initially and now apparently from the Hon Major Peliza, is going to fail. I would ask why? I have read the consultants' reports. I have not seen anywhere that it states definitely that commercialisation is doomed to fail. Even the latest reports of our own consultants, which the Hon Major Peliza apparently did not want to read but knows what it is all about, does not say it is doomed to fail. It is as stated in

HON MAJOR R J PELIZA:

Would the Hon Member give way. Well, it was just a remark that I had not seen it. I was just referring to what other Members who had seen it said in the House. By the way, on the Beeching Report, I might as well clear that. As far as I can remember the Beeching Report was to the Governor. He came to see productivity generally for the Dockyard. It was not within the responsibility of the Chief Minister to release it or not.

HON M K FEATHERSTONE:

I didn't know the Chief Minister had such little power in those days. Anyway, as I said, the Hon Major Peliza says that it is not viable on hearsay which, doubtless, he has got from the Members who have read the report. I would wonder whether they have read it properly because, the way that I read it, it seems to me that not only is commercialisation recommended but it is stated that it will be viable. Perhaps not in the time schedule envisaged by Appledore who were, if anything, rather optimistic. However, that it was doomed to failure was not what I understood.

HON J BOSSANO:

Would the Hon Member give way. If the Hon Member has said that what Mr Casey said was not that it was doomed to failure but that it would not work on the time schedule suggested by Appledore, I take it that the time schedule has not been changed.

HON M K FEATHERSTONE:

Yes, there has been a change in the time schedule because of the years' deferment.

HON J BOSSANO:

They are going to start a year later. Is Appledore saying that they expect to attain viability in eight years instead of four now?

HON M K FEATHERSTONE:

No, Sir, I am not saying that. Some years back, Sir, Singapore found itself in a similar situation. The British Government at the time was cutting down defence in the South-East Asia area and one of the things that they determined to do was to close down the Dockyard at Singapore. What did the Singaporeans do about it? Did they immediately say: 'All this is the end of the world, there is nothing we can do'. Commercialisation was offered to them but did they say it was non-viable? They said 'No, we will accept commercialisation. We will see that it is a success. We will rise to the occasion. We will make it work'. I wonder if the people of Gibraltar cannot copy their Asian

counterparts and do exactly the same. I feel sure that the people of Gibraltar can rise to the occasion, that we can make it a success, that we can produce the work. The skills of the Gibraltar workers are well known. They have been proved time and time again. We can make commercialisation a success because commercialisation basically will be successful if we can produce the goods, and I am sure we can. Of course one is unhappy to see the comfortable niche of a naval dockyard economy disappear. Yet some would claim that a dockyard economy was a manifestation of British colonialism at its worst, in which the best jobs were reserved for importados, the best housing was reserved for importados, locals were to be kept in their place, they were to be subservient

HON P J ISOLA:

Wasn't that GLP/AAGR thought

MR SPEAKER:

Have you given way?

HON M K FEATHERSTONE:

No, I have not given way, Sir. I listened very patiently to the Hon Major Peliza and the Hon Leader of the Opposition and I did not interrupt them once. They had, I think, a very good saying. They each spoke for at least one hour, I think there were no interruptions to any extent from this side at all and I hope the same courtesy can be given to speakers from this side. It is a pity that they don't always observe the rules of the House as much as they say that we should observe them. Sir, as I said, some people would have said that a Naval Dockyard was British colonialism at its worst. Well, that is obviously something that could be debatable but now we have a chance to stand on our own feet. Now we have a chance, as far as any nation can, to determine our own future. Obviously outside factors can influence us but a great deal is left to us. Mr Bossano says that the motion that we have put forward is unacceptable. He does not say what he would accept. That, of course, is one of the things that he has got tucked away in his briefcase like his plans for the economic salvation of Gibraltar that we have heard at budget time from year to year.

HON J BOSSANO:

I suppose he is not giving way to me either.

HON M K FEATHERSTONE:

I will give way to you, Mr Bossano.

HON J BOSSANO:

Mr Speaker, I have put several motions on the subject in this House, which the Hon Member has voted against. That is why I do not accept his and he has not accepted mine. I live in a democracy and I accept he has got the right to vote against mine but he cannot say I have not made any proposals, I have and he has defeated them.

HON M K FEATHERSTONE:

Well, he has not said at this juncture what he is willing to accept. In view of the latest situation that the British Government has stated most firmly and most unequivocally that the Dockyard would sooner or later have to close, perhaps he might have said: "Well, I would have accepted eighteen months or two years". If his only solution was the continuation of the Dockyard as such, I think that he is abandoning his normal logical approach and I think yesterday he spoke less from his usual platform of logic and more from a platform of emotion. Perhaps the situation is that he knows that election days are coming near and he prefers to play a little bit to the gallery and to the electorate than use his usual cold logic and approach to the situation. I think the Hon Mr Bossano should read his early English history and learn a little from King Canute. This King showed his followers that, come what may, you cannot stem the inevitable flow of the tide and today the tide of British defence is flowing inwards in such a way that, perhaps unfortunately, sand castles of dockyards at Chatham, Portsmouth and lamentably Gibraltar are going to be washed away. There is not very much that we can do about stopping the flow of the tide. We have tried. Friends in Parliament have asked about it. To all the answer has been the same: British defence policy and strategy is such that Dockyards have to close, amongst them Gibraltar. Yet Gibraltar has, time after time, been offered considerable assistance in seeking an alternative, which assistance has not been offered to places like Chatham and Portsmouth where they have just had to take their chance and go on to the mounting numbers of unemployed in Britain. We have tried to ameliorate the decision and see what we could do to turn a difficult situation into what could be considered the best of a bad job. Against the odds, our negotiators have got an extension of one year for the Dockyard. That alone is worth some £13m from the British Government, so it is not too bad as a start. Then I would comment that this year's extension was not the initial step. The first step they offered us was only a six month's extension and they considered that that was very generous. However when Mr Ian Stewart came out here, Ministers put forward very forcibly the Gibraltar viewpoint and I think in all modesty we can say that Mr Stewart was impressed, went back and fought Gibraltar's case with his Cabinet colleagues for an improvement over the six months and we have got the one year extension. What is the deal that we have got? If you do not want to call it a deal you can call it a package. Apart from the Dockyard extension, we have obtained what was already on the table, the £28m to refurbish the Dockyard into a modern dockyard and to cover losses over the first two years. We have also got

an increased order book and it is very pleasant, I should think, for any operator to start a new business with an order book which for the first three years was 40% to 50% full. The amount of business envisaged in the Dockyard per annum is somewhere around £9m to £10m of work and that over three years is some £30m. Furthermore, if you have got £14m already on the order book, in fact, more than £14m because work on small craft to the tune of £½m to £1m per year is also going to be added, then you have got your order book half full. If that is not a pretty good step towards initial viability I wonder then what is. One of the points that was very strongly brought up by Ministers in Gibraltar was that the question of the Dockyard closing and being replaced by commercialisation was not sufficient, that what was needed was a strong look at the whole economic structure of Gibraltar and that what was required was more, so that the economy of Gibraltar as a whole could become more viable. The strongest effort in this was seen to be in the question of land. Therefore the British Government were pressed that areas of land, especially those bordering the seafront, should become available to Gibraltar so that they could be developed and improve the economy, especially the tourist economy, of Gibraltar. The British Government has acceded to this. They have agreed that a long area of Queensway, starting from the Dockyard Technical College, soon to be called the Gibraltar Technical College, all the way to the north gate of the Dockyard, should be handed over as soon as possible to the Government of Gibraltar. Under normal circumstances the move of such entities as the MOD stores in that area and the NAAFI would have had to be paid for by the Gibraltar Government because the MOD's attitude is! Well, we will do our best to help you. We will move from one area to another but of course this is going to cost a lot of money in reprovisioning and you should pay it'. In this instance the British Government are going to pay it. I do not know how that can be quantified in exact terms but I would say that is worth another £5m to £10m to us. This is one more gain that our negotiators have got for us. They have also offered a long piece of land from Engineer Battery, taking in the whole of Rosia Bay, right the way down to the Western side of the Nuffield pool as and when we have need for developing it. This, I think puts back into the hands of the people of Gibraltar a great majority of the seaboard littoral, something which is basically of vital import to Gibraltar if we are going to improve our tourist image. One of the most important things, I think, if you are going to attract tourists, is that you can offer them a sea frontage. This up to now has been something in which we have been sadly lacking but which in the future we should be able to improve upon very considerably. Of course we will have to look for developers but developers will come. We have already the companies that were considering development on the East Side. I am sure that now that the Queensway area will become available, they will look to that area also and we can have considerable hopes that something definite may come reasonably soon. In the meantime, my Department is looking at the areas concerned, are seeing what they can do to bring out possible schemes so that when developers come along some ideas of what Gibraltar would like to see can be put to them. Our future must hinge therefore on these two main features. An active Dockyard working commercially can, as I said before, be a viable solution. It may take

a little longer than perhaps one would like but there is the opinion in some quarters that it is often better to start a business at the bottom of a recession because then the only way you can go is up. If you start at the top of a boom, you may in the first year do very well and then suddenly find your business falling away. One of the things I would comment to, I think, the Hon Mr Isola or it might have been the Hon Major Peliza, I confuse the two sometimes they speak so much one cannot remember all of it, is on the question of Appledore. No, it was the Hon Major Peliza. Appledore are coming in as, basically, employees of the Gibraltar Government. They are going to be the managers of the Gibraltar Ship Repair Company which will be a Government owned entity. One does not normally expect the person you put in as a manager to put in equity although once the situation has got itself going then sometimes you do offer managers the opportunity to take equity. But it is no good coming out with the story that, having looked up the accounts of Appledore, they are just a shell company. They are naturally a shell company in some aspects because it is their job to employ the correct persons as and when they need them. They do not need to have a staff of 500 extra sitting doing nothing if there is no work for them. When their requirements are such that they have a job to manage somewhere then they will employ the people concerned. They have got considerable expertise in this field. They have been successful in other areas and I cannot see why they cannot be successful in Gibraltar, given the goodwill of the people and the workforce of Gibraltar to help them. Just to recap, what have we got? We have got the Dockyard area itself being handed over free of charge. That alone is really something. We have got £28m for refurbishing and for starting off the company operations for the first two years. We have got £14m of work promised on larger ships. We have got £½m to £1m of work promised on a continuing basis, even after the first three years, on smaller ships. We have got the move, at British Government expense, of their properties in the Queensway area to some other area, something which will cost at least £5m and which will give a fillip to the building industry. All in all, I think that this is not a bad deal. I think that we owe a considerable amount to our negotiators, especially Sir Joshua and Mr Canepa, the Minister for Economic Development, who have been at the forefront together with their officials. I think we can say that we have had a successful outcome after many weeks, even months, of hard and nerve-racking negotiations. It has not been easy but we have won through. I would support the motion wholeheartedly.

HON A T LODDO:

Mr Speaker, I am neither an economist nor a lawyer so perhaps you will forgive me if my analysis tends to be over-simplistic. I will start with the package. If you take away all the padding, the question I ask myself is what have we got today that we did not have two years ago? What we have today is one year's extension, I would prefer to call it stay of execution; £3m extra of naval work and the release of certain MOD lands. That is what I believe we have today that we did not have two years ago. The £28m and all the rest, we had. I will deal with the year's stay of execution a little later. As to the £3m, in these days of

economies I do not wish to sound ungrateful, but those £3m will go over three years. I am worried about after the three years, not just the three years. I will not be blinded by the three years. It is very good to start a business with 50% orders but when you expect that business to be the mainstay of your economy for evermore or for the foreseeable future then I think £3m becomes a mere drop in the ocean. As to MOD land, Mr Speaker, it strikes me that the British Government must have been really concerned to get the Dockyard off its hands because this is the first time that I can ever remember the British Government releasing land and buildings free and being prepared to move somewhere else at their own expense. Mr Speaker, today in this House I feel genuinely cheated. For two years we have been tending a sick patient and his condition was so serious that in February of this year the Government promised us consultation. We would consult on the state of the patient and how we would go about trying to get him better. Well, for me, Mr Speaker, consultation is very much the same as the interpretation put on by Lord Bishopston. Yesterday in the House of Lords he said: "Consultation is telling the people what you have in mind, asking their views and being prepared to modify your plan". Mr Speaker, I do not believe we have had consultation over our patient. What we have here today is a post mortem. Our patient, Mr Speaker, is dead and the purpose of this debate, the way I see it, is to get him buried with as little ceremony as possible and as quickly as possible. Mr Speaker, for me this debate is a very good exercise in parliamentary procedure but no more. This debate presents me with a fait accompli. However, I am not prepared to put a rubber stamp on it. Mr Speaker, if I feel cheated I think the people of Gibraltar today feel defrauded. This issue of the Dockyard has been so big that it has gone beyond party loyalty and certainly beyond any one personal politician's scope. I believe that the people of Gibraltar would have preferred to have seen a united front on this issue as we have been advocating from the very beginning. I also believe, Mr Speaker, that we are not doing Gibraltar any good by squabbling here today and I do not think we, as leaders of Gibraltar, are doing ourselves any good. However, let there be no mistake about it, the responsibility for this state of affairs is not for lack of trying on this side of the House. Mr Speaker, I know I am not allowed to quote from any of the reports I have read. I read one the day before yesterday which was also very confidential. When I read it I had the similar impression that my Hon Friend Mr Bossano got. I did not find anything so confidential and I, in fact, asked the person who gave me the report to read, why all the fuss when we were going to discuss it openly here a day or so later? However, Mr Speaker, in none of the reports I have seen have I been given proof that a commercial repair yard is viable. We see the state of ship repair yards in the Mediterranean and in the Dutch and Belgian yards and it is not an encouraging scenario. Mr Speaker, in its commitment to the people of Gibraltar to sustain and support, the British Government pledged itself to provide us with a viable economic alternative once the Dockyard closed. Mr Speaker, I do not believe we have a viable economic alternative in a ship repair yard. Ship repair yards are in the doldrums everywhere. A lot of emphasis has been put on the cooperation of the labour force and I think everybody will agree that it is essential but it is not the be all and the end all. With all the

good will in the world and with all the cooperation in the world, if there is no work or if our efforts are frustrated by our friends across the way, then what, Mr Speaker? What is at the end of five years? It is not commercially viable and Appledore says: "Well, enough is enough. This is a business after all, I am sorry, there is no more I can do. I have done my best for you and I am away". Mr Speaker, Spain has not been able to bring us to our knees because we have had a Naval Dockyard. Our economy has been stable and they could not interfere with it but they will. The last thing Spain wants to do is see us economically viable and Spain can wait, Mr Speaker. She has been waiting for 279 years. She can wait another five. She is very good at waiting. They do not call her the 'land of mañana' for nothing. Mr Speaker, today it seems to me, and in fact I think it has been confirmed, that the British Government has, like the Godfather, made us an offer we cannot refuse. We have been given a choice, Hobson's choice, and one of the things that worry me, and there are many things that worry me although I know it does not seem to worry the Hon Mr Featherstone, is that Appledore is not prepared to put a penny into the venture. If their prognostications are so good and if they are so convinced that this thing is going to work, if I were them I would be dying to put £1m in. However, Mr Speaker, although I am not happy at all about the commercial ship repair yard I am equally not inclined to go along with a death or glory charge. That was alright for Balaclava and Lord Tennyson, it makes very pleasant reading, but I do not think it is for us. The only bright spot in all this, Mr Speaker, for me is that we have one year in which, Mr Speaker, we should still try to get a commitment from the British Government that if at the end of the day the commercial yard needs to be propped up, not because of lack of cooperation from the workforce but because the work is not there, the British Government will honour its pledge to maintain, sustain and support Gibraltar by sending work our way. I believe that the workers of Gibraltar, the skilled workers of Gibraltar are equal to any worker anywhere in the world and I do not believe that the worker in Gibraltar is afraid of work. The proof of it is that when workers leave Gibraltar and go overseas they always do very well and they are always very highly regarded. Gibraltarian craftsmen are very highly regarded everywhere. The workers of Gibraltar are not afraid of work. I believe the workers of Gibraltar are afraid of not having any work. Mr Speaker, I believe that we have, that one last chance. We will not reverse the closure, I believed this for a long time and I said it here, that the closure of the Dockyard was coming. I said it in the last debate in the House. I believe that this year that we have got should be made full use of to try and get a commitment from the British Government that if a commercial yard cannot continue through no fault of our own we will be underscriven. Thank you, Mr Speaker.

HON A J CANEPA:

Mr Speaker, before I get myself involved in the more controversial aspects of this debate, I want to say that for well over 2 months now, Ministers and Officials of the Government have been engaged in a very careful, detailed and exhaustive study of the proposals for commercialisation of the Dockyard. Many

and very lengthy documents and reports have had to be analysed in great depth and many long hours of discussions spent in meetings over a number of weeks, particularly in the days leading up to the formulation of the view, of a Government view, of the issues raised. The Officials, in particular the Financial and Development Secretary, the Administrative Secretary, and the Economic Adviser, have also spent many more months of hard work involving a lot of trouble and travel to the UK as part of the Project Study Team. I want to take the opportunity to publicly thank them for all their selfless dedication to what has been a very hard task indeed. Since this will be his last meeting of the House before he retires, I want to single out Reg Wallace - about his retirement, no doubt the Chief Minister and other members will speak in due course - and to say how grateful we all of us are to the great wisdom that has characterised his advice to Ministers and for the extent to which he has identified himself with the cause of Gibraltar at all times. That he was able to keep going at all in spite of personal tragedy, speaks for itself. Now Sir, I am going to dedicate the first part of my intervention to dealing with some of the matters that have been raised in the debate, before I go on to deal with the wider economic aspects of the deal which we have agreed to with the British Government. Let me say that, beginning with the Honourable Mr Bossano, who spoke yesterday evening, I consider that his reaction was entirely predictable and, indeed, I can say that I share his sentiments. How could his reaction have been otherwise, having regard to the stand which he has taken on the matter, having regard to the basis of his own political standing and support within Gibraltar. We must not forget either, those who would bring him down if only they could. The reaction from the official Opposition has also been totally predictable. Of course, the point has been made at length that the package is not enough, that it is not good enough. This is the kind of thing that we have been hearing from the Opposition for some time. It is a consistent attitude on their part and that is the privilege of an Opposition. Long may they continue to enjoy that privilege. What they haven't said, of course, is what is the alternative. We must find an alternative but what is that alternative. Of course, they are not able to say. The point has been made that we would have been better served by going it together, by conducting the kind of public relations exercise which was so successful on the question of Nationality. In the first place, I honestly believe that the Leader of the Opposition forfeited his right to consultation when he unilaterally decided, in order to seek political glory perhaps, to try to steal the thunder from the Chief Minister, when he decided and wrote his 650 letters to the Members of Parliament. So much for going it together. Now, would we have got, in fact, a better package if we had gone in it together? Having seen at close hand how matters have developed, I have no doubt that the answer is no. The impression that I got last month in London, when we also had the opportunity to speak to many Members of Parliament, was that already many Members of Parliament were regarding the offer of Her Majesty's Government, as it was emerging then, as generous. Certainly as compared to Chatham, for instance. Of course, there has been now, particularly yesterday, much more clear evidence of the concern, on the part of Members of Parliament, that work which was wanted at home was coming to Gibraltar. The whole

question of constituency interests has been very much to the fore. I recall that, even before then, Mr Neville Trotter, who over the years has been a very good friend of Gibraltar, nevertheless of course had to put his own political future and the interests of his constituents first. Well before any statements were made in Parliament, he was complaining about the fact that work was going to be provided for a commercial yard in Gibraltar which was badly needed in Tynemouth, which he represents, where there is great unemployment. Yesterday in the House of Commons, a number of members of Parliament posed a series of supplementary questions to Mr Ian Stewart and I think that some of them are worth quoting. For instance, Mr Duffy asked the Minister: "Will the £14m worth of royal fleet auxiliary orders be sent to Gibraltar at the expense of British yards, notably Tyneside?" again, notice. The Minister replied, he said, "£14m worth of royal fleet auxiliary work over three years will be undertaken in Gibraltar, at the expense of British dockyards or British shipyards". Mr Gordon Brown also expressed concern on this matter and again I think it is worth quoting, Mr Speaker: "Will the Minister guarantee that no jobs will be lost at Rosyth Dockyard in the refitting of royal fleet auxiliary or other vessels? Is he aware that Rosyth is in a constituency, parts of which have some of the worst unemployment rates in Europe?" The Honourable Leader of the Opposition, I think, made reference to Mr Tom Dalyell, apparently well known socialist and hardly a friend of Gibraltar, one would imagine. Mr Dalyell said: "Am I not justified in thinking that this package is extremely generous to the Gibraltarians?" and so on Mr Speaker. I think it is important to say this because it builds up a picture where I think that the kind of public relations exercise that was so successful on the question of British nationality just isn't feasible. It just simply isn't on. The background, the sympathy just isn't there because we are taking away something from them whereas in the case of British nationality that was not the case. We were not taking anything away from the British people. They were just giving us something which they could well afford to give and which they wanted to give. Something, in any case, which we had prior to the amendments to the Nationality Act. I think, having regard to the big majority which the Government has in the House of Commons, that any prospect of a revolt along the lines of what happened two years ago almost to the day, simply is not on. We have seen the reaction of the Chairman of the British Gibraltar Group, broadly welcoming the proposals. There is one other thing that I should mention as well. What about public opinion outside Parliament? Would that be well disposed towards Gibraltar getting an even better deal? What about the attitude of the Trade Unions in the United Kingdom? I think there has been a lack of real support on their part. There has been no action taken by the Trade Unions in the UK, in spite of the fact that many of the Trade Unions in Gibraltar are affiliated to them and are branches of those Unions. Plenty of words but no real action, no real support. Why, because they have not really been prepared to take action on behalf of their own members in the United Kingdom. Nothing has happened to stop the closure at Chatham. Nothing has happened to try and ameliorate the run down in Portsmouth. That has been the background, therefore, which we must never lose sight of in considering what we have obtained. The other reason why I think we would not have got a better deal is that

it has become abundantly clear that there was a need for one Government to negotiate and bargain with another Government. It was hardly a matter for Members opposite who, not having the burden of responsibility and having no constitutional authority as we in the Government do, would not have been able to react with the necessary decisiveness. I feel the negotiations would have been bogged down because there would have been a need for the Leader of the Opposition to be constantly working ad referendum to his other colleagues because the extent of their involvement would never have been as great as in the case of Ministers, who have been fully involved. He would have had to satisfy the Honourable Major Peliza who doesn't even believe that the closure of the Dockyard is a foregone conclusion. He would have had to satisfy Mr Restano and, increasingly of late, Mr Haynes as well. What about the need of confidentiality in all these negotiations? Would the Opposition, who are not bound by any constitutional obligation, have abided by this requirement of confidentiality or would everything have been conducted under an impossible public glare? I am sure Her Majesty's Government could not have brooked this for one moment, having regard more so to the subsequent reaction that there has been from some Members of Parliament. At the end of it all, I think, less would have been achieved but then, of course, they could have claimed the credit for it as they did with the nationality success. Ultimately, Mr Speaker, it boils down to this. Whether the Opposition like it or not - and they clearly don't, particularly the Honourable Mr Isola - the fact of the matter is that it has been the team-work, the know how, the tenacity of Ministers and Officials together with the prestige and understanding which Sir Joshua clearly enjoys in London - and I have been a witness to that - which has made it possible to achieve what has been achieved. Mr Isola this afternoon asked, because the Chief Minister has not included a very crucial paragraph about continuing support for our economy, how had the statement been put together. Well I can tell him? Half of it was put together as a result of very long telephone calls from London to a typist in Secretariat who was typing it here whilst we were in the UK. The rest of it was being drafted on the plane on the way back yesterday morning and had to be put together in great haste in the afternoon. In the light of that, I think, that a paragraph should have escaped our attention when we never had an opportunity to study the 27 or 28 pages in detail, is not unexpected. Mr Isola cast out about the prospects for development of the sites that we have obtained. He likened them to what has happened to the Command Education Centre. Well, there isn't a parallel. The Command Education Centre is a rather difficult site in the centre of town on which we have put very serious planning constraints on purpose because the project has a conservation character.

Naturally, in the present circumstances, that has not encouraged developers. It is, I would agree, the kind of project which was the subject of the public participation exercise last year. It was very much with an eye to an open frontier. We have put serious planning constraints. If we had allowed a developer to demolish that and make proposals for office accommodation, for instance, another Gibraltar Heights, I am sure that there would have been plenty of developers, even under the present circumstances, interested. More so with the expansion of Gibraltar as a Finance Centre and the birth of office

accommodation that there is, as we have seen in the Development and Planning Commission where we are getting constantly applications for change of use from residential to office accommodation. He mentioned the Diversification Study. I honestly do not know whether Mr Isola does not have a good memory or whether accuracy is not one of his attributes. I honestly think that he should read the report of the Diversification Study again because this Report did not examine development opportunities in the context of the release of prime sites held by the MOD. That just didn't come into their terms of reference at all. Let me inform the Honourable Member that funds are being made available for the multi-storey car-park project at Casemates. I have, only this morning, had the opportunity to see a letter from the prospective developers to the Land Board answering a number of questions that we have put to them. This is one of the matters on which assurances are being given. One of the major constraints with Casemates and with Engineer Battery has been the MOD and the lack of flexibility which we have had all along: the requirement to reprovide seven Married Quarters, then down to five according to certain standards. That has not been easy. It is a wonder that we have the interest, in the first place, that we did when the cost of re-provisioning was estimated at something over a quarter million pounds which, in a project of four or five million could seriously put into jeopardy the viability of such a project. We are having problems of the Viaduct Causeway where the MOD are being difficult. This has been a constantly recurring theme, usually over trivialities but the sum total of it all has been protracted delays. Officials are moving now because the orders have come from No.10 and when that Lady gives an instruction the Civil Servants jump to it. The sites that we are getting are better. They don't have the same constraints of others. They are bigger and they are better situated. Doubts have naturally been cast about Appledore. I think that the Honourable Leader of the Opposition asked, or was it Major Peliza, how we could stick closely to them, in spite of the doubts cast by the Consultants, and not look at the other proposals for the use of the Dockyard. Why has not the Leader of the Opposition or the Honourable Major Peliza said what the Consultants told the Opposition about those other proposals. I leave it up to any of the other Honourable Members of the Opposition who were present at the Presentation to tell this House what was said by Coopers and Lybrand, Ross Belch and Associates about the other proposals for use of the Dockyard facilities. Sir, the deferment of closure for one year effectively means that we now have 17 months to plan, to begin to adjust and maintain the closest contact with the MOD on the land issue in our mutual interests. Deferment will avoid the suddenness of the unemployment impact which would have had a much more damaging effect, especially since the revenue effects are automatic. For instance, with the collection or the non-collection of PAYE, the loss of revenue would have had an immediate effect on the Government's income. Hopefully now, more so if there are some voluntary redundancies once the state of redundancy has been declared, deferment could reduce the structural unemployment effect. In this respect, we will also have more time to agree with the Unions on employment strategy in Government Departments in order to create some job opportunities, as the Chief Minister mentioned in his statement. Naturally, we would have preferred more time, but not as a blind demand expecting a continuation of

the Naval Dockyard for ever. Sooner or later, whether for defence review, economy or technological reasons, it would close. Invariably, and worse still, the Dockyard would have been run down further in terms of labour and assets, as has in fact happened over the last decade. It is difficult to say when the timing of the closure is right. The key probably lies in providing Gibraltar with the necessary opportunities to develop a real economy. The one year deferment will not do this but it will mark a beginning, a new emphasis on our policy for economic development which requires that priority needs should move away from the concept of the 'Defence' economy towards a real and more permanent economy. In other words, the Gibraltar economy will no longer be entirely subservient to Defence considerations, as has been the case in the past. For the first time in our history, I think that the transition will begin from an artificial economy to a more natural economy. Commercialisation is going to change the structure of the economy. At present about $\frac{2}{3}$ of our national income is derived from fixed export earnings, mainly Defence expenditure. With the closure of the Dockyard this will be reversed and approximately $\frac{2}{3}$ of our national income will be dependent on the variable export earnings from tourism, commercial ship repair, the port, and finance centre activities. In other words, as the Public Sector diminishes and dies so the Private Sector will grow. This has to be secured and it has to be developed, in other words, we have to diversify. We can only do this with the release of MOD lands. You may well ask: "Why hasn't it been done before?" This has been mainly because the Defence economy has retained a stranglehold on land, particularly on Gibraltar's prime development sites. Mr Speaker, during the course of my contribution to the debate held last February about the need to reconcile the needs of the Naval Base with those of the economy, I have this to say, I quote from page 84 of Hansard: "What we cannot allow, Mr Speaker, indefinitely, is the continuation of the state of affairs, that anyone will witness if he looks down, for instance, from Bleak House on the Nuffield Pool, on the vast area that there is between the Nuffield Pool and the Western Seafront. A huge area for a select few. That cannot be allowed to continue. Neither can we have a few select expatriate families at the Rosia Swimming Club with a few local civil service families who have also been able to become members enjoying that Bay, Rosia Bay, which has got great touristic and economic potential. This is something which we are going to have to very seriously look at". I also said: "Once this small matter of the transfer of dockyard assets has been sorted out, I have no doubt that we shall have to look very carefully at, and step up our demands for, the transfer of MOD land. What I said then, Mr Speaker, and what has happened since has clearly underlined the remarkable consistency of approach and outlook on the part of the Gibraltar Government towards this crucial issue. Now the situation will start to change. We have two prime sites on offer, Rosia and Queensway. Perhaps where I made a mistake then was that, in fact, the whole process has been accelerated. Perhaps in February I did not think that we would have stepped up our demands by July of this year, thinking that we would do so later in the Autumn. We have broken the ice. It is, in my view, perhaps only the beginning but a very significant advance and we must now really spare no efforts to attract the right

developers for the right development. We already have sketch plans ready. We know of interested parties and we shall push for early release. A word of warning, Mr Speaker. In the release of these sites there is no quid pro quo. This is not a question of a small sacrifice to sell us the commercialisation project. Again, what I have first said about my thinking that perhaps the whole issue would come later and that there was no simultaneous linkage of the Dockyard and the release of these sites, I think applies as well. I think the time came last month, Mr Speaker, for us to press for all the land that we needed. This must be the continuing policy for the future except where it can be shown that it is not possible, on essential - and I underline the word essential - Defence grounds. Back in 1970, if I may reminisce for a moment, our Party initiated a concept: the philosophy of the right to our land. I was myself deeply involved in that thinking with Aurelio Montegriffo and with the then Young AACR. It was, perhaps, initially a response against Spain. A response to tell all, including Britain perhaps, that the most important element in the dispute over Gibraltar was the oneness of the people and the territory of Gibraltar. If not de jure then certainly de facto, Gibraltar and its territory belongs to the people of Gibraltar. Today, I think that this concept takes on a new and a more practical added dimension. It has been manifestly accepted in London that land can no longer be held for the privileged purposes of a few when in reality it is needed to keep Gibraltar going, to keep the Gibraltarians here, housed here, working here, fed here and ready to keep Spain out. We have reached a cross-roads, a point where it has been recognised that the MOD cannot both close the Dockyard and continue to have a social club on a prime site on the Western Seafront when Gibraltar requires some form of economic activity there. Mr Speaker, turning now to the commercialisation project itself, it has to be said that it does not seem to offer real prospects of viability in the short term. It will not fill the gap in the economy created by the closure of the Naval Dockyard and in fact we move towards commercialisation knowing this and accepting it. You are not pulling the wool over anybody's eyes. All the more reason why we have to establish the conditions for the economy as a whole to diversify and to be in a strong enough position to counter the inevitable cyclical fortunes to which it will be increasingly exposed. This is what requires unity of purpose in the future. Just as we are fighting and succeeding in obtaining as much land as we need, so shall we also insist on obtaining the conditions and the safeguards which we need to allow the economy the flexibility it requires. Firstly, one area where we need to move quickly is to demand a faster reappraisal of the EEC problem. The problem that will be posed on Spanish accession. Our case for a special status is overwhelming and it will have to be won. As Honourable Members know this matter is currently being very actively re-activated with a visit of a number of F.C.O. Officials who are well versed on the EEC and who have held a number of meetings with political parties and other institutions over the last few days. Secondly, Mr Speaker, the onus is on Her Majesty's Government to continue standing firm against Spain and bring about a lifting of all restrictions. That onus now becomes greater. Thirdly, as I have said before, the MOD cannot continue stifling our prospects for diversification. Not just the Lands question but also these other tiresome constraints on development

projects that I have spoken about. Mr Speaker, let me stress that the Consultants recommendation that we accept commercialisation has been looked at very critically. Essentially commercialisation arises, not as an alternative amongst others, but as the only alternative, since something is surely better than nothing at all. For this reason, the cost benefit analysis of the consultants has to be seen as a qualified assessment. They conclude in this cost benefit analysis, that it shows that commercialisation is desirable. However, this is only because there are no other alternatives. The support which has been offered by Her Majesty's Government on capital investment etc, on naval work, and on future economic assistance does however provide a major input towards viability and repairing the new yards to meet competitive pressures in the future. Because of this, we must try and make a success of the project. The risks and the difficulties are there. They are not to be minimised. Major changes in management and working practices are required but there are also opportunities. There are opportunities for Gibraltarians to prove their worth, to break the MOD barriers to promotion and career advancement and the chance, however difficult, to try and make the yard profitable. It is a tall order, yes, but let us not be ashamed of working for our future. A future over which we will now exercise more control despite the increased exposure to international market forces to which we shall be subject. We are also conscious of the role which Appledore will have to perform. They were clearly the best choice but let them not think that they can move in comfortably or complacently. Let them not think that they are going to emulate the MOD in a new modern style. They will be managers of the yard. They will have to deliver, as will undoubtedly those working there, but they have no claim to anything else but earning their due. Now if we do our best and, through no fault of ours, as the Honourable Mr Tony Loddos was saying, the Government, Appledore, the workforce or the yard, in spite of all those efforts, does not break through into viability, I think we shall have just cause. I believe there is already recognition by Her Majesty's Government, as is clear from Mr Stewart's statement in the House of Commons yesterday, for further support. I think, Mr Speaker, that it is a statement worth quoting again in the context of what I am saying because this is a very significant statement. I think that it is as significant as the emergence of the policy of sustain and support when the border closed in 1969. The statement which Mr Stewart made yesterday, seen against the background of the inevitable closure of the Dockyard at the end of 1984, I think is as significant and offers the kind of prospects for hope for the future of Gibraltar that support and sustain has done in the last 15 years. Mr Stewart said: 'if there are any further difficulties for the Gibraltar economy, Her Majesty's Government would be prepared, in line with the policy of supporting Gibraltar during the present border restrictions, to look at the whole economic and budgetary situation with a view to considering whether, and if so what, further measures of support might be necessary or justifiable in the circumstances of the time. This is the kind of thing that we have been fighting for for the last two years when the Overseas Development Administration have been hinting that, because the Lisbon Agreement was going to be implemented, and because we had a very high standard of living, Gibraltar had no

further requirement for development aid. These are the sort of assurances which I think should once and for all, if there is still any doubt, quell any suggestions that there is a plot on the part of the British Government to sell Gibraltar down the river. I think, Mr Speaker, that the possibility, therefore, of either more naval work or increased funding after the third year is something which that statement gives us great hopes of fighting for. I think the sum total of it all is that it is clear that we are not being ditched by the British Government and we are grateful for that. Let me warn in advance that, even with the best efforts to smooth the conversion of the Dockyard into commercial work, it is likely that the Government of Gibraltar will have to face budgetary constraints. We will have to look critically at areas of Government spending where financial resources are more desirable, I would say, than essential. I say this now because I do not wish to be accused later that we moved on a particular course without realising the full consequences. There are areas where savings will have to be made without further endangering employment levels. Mr Speaker, when we met the Foreign Secretary on the 29 June I tried to impress upon him that for commercialisation to be at all acceptable it would have to form part of a package of measures which would enable Gibraltar to move away from an artificial economy to a more natural one. It had to be a package that would include the release of land held by the MOD as well as assistance towards the diversification of the economy. I think again that that statement of Mr Stewart fits in very well with that. A reasonable period of time was required and the Gibraltar Government wanted to achieve a dignified posture and had no wish to perpetuate the need for British Government assistance. Mr Speaker, I firmly believe that what we have obtained goes a very long way towards what I was asking for. My comfort in that lies not just in the whole of the deal but, in particular, in Mr Stewart's statement at the end of his main statement. Sir, I believe that the package of measures which were spelt out in detail by the Chief Minister yesterday, given closure of the Naval Dockyard, constitute a very significant contribution on the part of Her Majesty's Government towards meeting the objectives of the Gibraltar Government and to a very considerable extent, I would say too, the aspirations of the people of Gibraltar. These commitments enabled me, without hesitation, to support the motion. I very much hope that we shall all in Gibraltar, when the sands have rested on this debate as they will, manage to move and work together to make a success of the enterprise so that future generations will be able to look back and affirm that when we were weighed in the balance we were not found wanting. Thank you Mr Speaker.

HON G T RESTANO:

Mr Speaker, one of the most serious accusations that I have levelled at the Government is that they have not done enough to try and get the British Government to reverse the decision to close the Dockyard. As I see it, there have only been two occasions that I know of. One was through the memorandum that was sent to the British Government and the other was the Chief Ministers first visit to the Prime Minister. However there was an approach that could have been taken a long time ago and that

approach was the same approach that was taken for the Nationality Act. That was a joint approach from Gibraltar, a united approach by all political parties going to Members of Parliament. It has been said this afternoon that this was simply not on. Well, I disagree with that and I will give my reasons, which I don't think have really been given by Mr Canepa. On the 10 March my friend, the Honourable and Learned Leader of the Opposition, and I held a meeting with the Chief Minister and his Deputy and proposed to them that we should do precisely this. That is that we should have a joint approach, write letters to MP's and to the Prime Minister as well. This was turned down. This was turned down by the Chief Minister. Only a few weeks ago my friend again wrote to him and urged him to have an appeal to Parliament in order to reverse that decision. Again no response. I do not say that that sort of strategy would necessarily have been successful but it might have been successful in the same way as the Nationality Act strategy was successful, where we sent memoranda after memoranda to the British Government to try and get them to give us British nationality. They said no repeatedly and it was only when we had a joint approach that we finally succeeded. Perhaps, by not having given the support to this joint venture, the Chief Minister has done a great disservice to Gibraltar. I think it is a very grave error of judgement on his part, in the same way as he committed a grave error of judgement on the 24 hour opening of the frontier and in the same way as he committed a great error of judgement on Gonzalez's intentions when he thought that he was such a good chap to open the frontier in the way that he was doing it. This error of judgement is much more serious because this error of judgement is in the area where Gibraltar's future is very much at stake. Therefore, you see, when he says in his statement on page 2, paragraph 6: 'I hope that the House will also accept that everything possible has been done by the Gibraltar Government to argue against closure', I do not accept that, most certainly not. I would like to hear from the Chief Minister why he refused to have an approach to Members of Parliament. I have not yet heard from him any explanation as to why he was unwilling to have this approach. Then, of course, Mr Speaker, there is the question of the lack of consultation with the Opposition. Mr Canepa was saying in his intervention that there would have been delays if the Leader of the Opposition had been consulted. Why then did he agree? Why did the Government agree in February to a motion of the Chief Minister's which said: 'This House considers that full consultation would take place between all the political parties represented in the House of Assembly before a final decision is made on the commercialisation of the Dockyard'? Has he consulted? No. He has ratted on the pledge that he gave this House. Mr Speaker, on the question of the viability of a commercial yard; there is, I think, no-one in this House who is qualified to express the opinion whether the commercial yard is viable or is not a viable proposition. Therefore one has to call in consultants and obtain assessments from experts in order to be able to reach a conclusion. Now those consultants, those reports, have been forthcoming. We have had some which were perhaps not very optimistic about the viability of a commercial yard. We had the presentation of the preferred operators, Messrs A & P Appledore and theirs, of course, was a rosy picture, but then one would expect that because they want to operate the yard: But of course, as has been mentioned before in this debate, they are

committing no finance to the yard. The Gibraltar Government Consultant, of course, was cautious but certainly one of those Members said, not once but twice, that he would not put his money into such a commercial yard. That is not very optimistic. Now the last report, the latest report that we have had, that is downright pessimistic. It means that for many, many years it is expected that that yard will not be viable. Whether one can honestly predict how well trends are going to turn in seven or eight years time, I think, is very difficult and hardly a position from where to make a judgement that in 7, 8 or 9 years time there would be viability. All these reports, Mr Speaker, have been a closely guarded secret. At the end of this debate, by Government majority of one, this motion will be passed. I would like to say at this point that there is the official Opposition and the Opposition of the Honourable Mr Bossano, the GSLP and that both the DPBG and the GSLP are voting against this motion. Between them they represent 54% of the electorate. The Government represents 38.6% as at the last election. Really, we are having a minority representation taking this great decision when the majority are against. Is the commercial plan really viable? We are told, and we have been told over and over again, that the ship repair market is in a very depressed condition. There is over-capacity and that over-capacity is very considerable. Therefore the competition is very aggressive because there are a lot of yards and there are not so many ships to be repaired. Moreover, most ship repair yards are being subsidised by Governments and one has to ask whether it is really a viable proposition. Mr Canepa was quoting earlier from the debate we had in February and he did, I must say, show, and has shown today, quite a different approach. He spoke then of the potential there is in the closure of the Dockyard for a catastrophe, not just an economic catastrophe but a constitutional and a political catastrophe for Gibraltar. I think that if that is the way ahead we are heading for chaos and out of that chaos, I do not know what is going to come. He seems to have changed quite considerably today

HON A J CANEPA:

I know I was not interrupted for which I am grateful but I would be grateful if he were to give way. I think the debate has to be seen in that context as a whole. We must not lose sight of what the Honourable Mr Bossano was saying then, when he was giving indications of Gibraltar being led down a road that the majority of us did not want to follow. That is why I was saying that I agree that closure of the Dockyard on its own without commercialisation, without a package on land and on other aid would lead to chaos. If we had not got the right firm I think we would have had a constitutional crisis. That was one of the points that we were able to make. Talk about holding pistols at people's heads; that is one of the points that we were able to make to the British Government and I did not think that they themselves wanted to go down that particular road either. I am grateful to the Honourable Member.

HON G T RESTANO:

Mr Speaker, in that debate we were talking very much about commercialisation. It was very much on the cards. It wasn't just that it would have been chaos. The Minister wasn't saying that it would have been chaos for the closure of the Dockyard without a commercialisation programme, that was already included. I can see that everybody on the Government side seems to be very happy with the deal and even, for example, the British Government thinks that the Chief Minister is very happy. Yesterday in the House of Lords, Lord Trefgarne said: "As I have stated, Sir Joshua is entirely happy apparently with the arrangements". So, the Government seems to be very happy and Sir Joshua apparently is very happy with this kind of operation which is very questionably viable. The problem, of course, is aggravated, not only by the difficulties in world wide over-capacity and so on, but by the additional problem of what was printed in the Daily Telegraph on Monday, which was headed: "Threat to Scheme for Gibraltar Ship-repair Yard". It said 'A serious threat to the Government's plan to begin converting the Naval Dockyard at Gibraltar this year into a commercial ship-repair yard is arising a few miles away at Algeciras within sight of the Rock. Some years ago, the Spanish Government began building a ship-repair yard there. Work was halted for lack of money but has now re-started with the backing of a Portuguese consortium'. That is going to be very difficult competition, Mr Speaker, because if the Spaniards want, as they always have done, to ruin as economically they can subsidise that yard to such an extent that it would make our own Dockyard very difficult to run. I must say that if it is not viable, it is not because of the workforce. The workforce, I think are splendid in the Dockyard and I think that the work that they did during the battle for the Falklands highlighted how well they can work and how well they normally do work. Mr Speaker, I must agree with the Honourable Mr Canepa in his comments about a statement made by Mr Stewart. I think it is almost as important as the support and sustain statement when it was made in its proper vein. And that is why I cannot understand, it is not conceivable to me, how such an important statement could be made and yet the Chief Minister forget to mention it in his own statement, a statement having 27 pages. One of the most important statements to be made in Parliament about Gibraltar, and I agree with Mr Canepa that it is, and the Chief Minister goes and forgets it, incredible. Now on the question of land, obviously one welcomes the additional land that is going to be handed over. At page 15, paragraph 40 of the statement, the Chief Minister said: 'Land in Gibraltar is not only a very scarce economic commodity, it is, apart from our entrepreneurial skills and our wits, the only economic commodity we have. It follows that we must make the best possible use of every inch of land in Gibraltar'. To judge from Engineer House, Government's track record is dismal. Here it is, on the one hand, saying that every inch of land in Gibraltar has to be used in the best possible manner and there we have a huge plot of land, which has been in Government's hands for many years and is still there undeveloped.

HON A J CANEPA:

We haven't had it for many years. The Honourable Major Peliza is aware of the fact because he pursued the matter in the House very vigourously when we had to purchase it for £84,000 a couple of years ago. We didn't have it. It was sold by the MOD on a freehold basis to Dayfenn Ltd and the Surveyor and Planning Secretary wrote a letter about that in the Chronicle two or three weeks ago, explaining what had happened.

HON G T RESTANO:

But the Gibraltar Government allowed that land to remain undeveloped for 20 years.

MR SPEAKER:

I will not allow you to digress.

HON G T RESTANO:

Well it is in the context of the land which is being handed to Government, Mr Speaker. May I just say that I hope that the track record of the Government is not continued in the same way that it has been. So one would want to know what is going to be developed on those sites and when. Both are just as important, what and when. When Government starts developing some programme, it normally takes an awfully long time, like the Varyl Begg roofs and the Generating Station. I heard that there was going to be an emphasis on tourism. I would like to know from where is the Government going to obtain the tourism and how it is going to obtain it; this tourism which is going to come and is going to take over part of the economy of Gibraltar, where? The Minister for Tourism has been going to the United Kingdom time and again and yet he does not seem to have had very successful trips. Most hotels in Gibraltar, at the moment, are going through perhaps the most depressed time that they have ever had to go through. Mr Speaker, to wind up then, I think that the Chief Minister has grossly mishandled the whole matter. There has been no consultation. There has been no approach to Parliament. There has been no united front. There has been no real fight to keep the Dockyard open. Over Gibraltar lies a big question mark over the viability of the Dockyard.

HON J B PEREZ:

Mr Speaker, one of the problems that one finds in speaking at this late stage in the debate is that, as far as the Government is concerned, the Ministers who have spoken in support, have spoken to such a large extent and have been so thorough, commencing from the statement made by the Chief Minister followed by my colleague Mr Featherstone and by Mr Canepa, that one finds oneself in the predicament that most of the points that one intended to make in support of the Government motion have already been made. I therefore beg your indulgence and the indulgence of

Members of the House if I tend to repeat some of the points which have already been made by my colleagues in this side of the House. I will like to commence my contribution, Mr Speaker, by making one or two general observations on the contributions which have been made by Members opposite and, in particular, the contribution made by Mr Isola and Mr Restano. I propose to deal with Mr Bossano at a later stage. Mr Restano and Mr Isola have said that if there had been further consultations between the Government and the Opposition, that is the DPEG, they are of the opinion that a unified approach might, and they both used the word 'might', have achieved something better for Gibraltar. But what I find absolutely incredible is that none of the speakers, none of the Members on the other side of the House have spelt out what they mean by something better. We have not had a word on that either from Mr Isola, either from Mr Peliza or from Mr Restano.

HON P J ISOLA:

I think I said in my opening, that is in one of the paragraphs that proposed one of my amendments, that the Commercial Dockyard, in the circumstances, was not a viable alternative to the closure and that therefore the closure should not take place until we were satisfied on the viability of the alternative. I congratulated the Government on getting a deferment of one year against what had been said all the time, that the 31st December was a definite closing date. If that date could be changed because of the arguments, then other dates could also have been changed.

HON J B PEREZ:

Yes, but be that as it may, that in fact corroborates what I have just been saying. We still haven't heard what their alternative is. Do we have a car factory there? Do we have a factory, building solar panels? Do we have a marble factory? What do we have? It is quite clear to me that none of the Members opposite have done their homework on this very important matter for Gibraltar. What is also very clear to me is that I can sense a feeling, a very strong feeling of frustration, from the Members opposite in this House because it is quite clear that, deep down, they all know that the package that the Government has obtained is a very good package, under the circumstances, for Gibraltar. This is where the frustration lies because I am sure that the Honourable Leader of the Opposition's ego would have been boosted if, after the Government had done all their homework, had done all the hard work with the Officials, when everything was ready, he had accompanied the Honourable and Learned Chief Minister to No. 10 Downing Street. He would come back and then he would have said to the electorate: "What a wonderful package we have achieved for Gibraltar". It is in fact, Mr Speaker, a great pity and, in fact, a sad day for Gibraltar. The Opposition, as far as the DPEG is concerned, is absolutely non-existent in this House of Assembly and in Gibraltar. The third point that I wish to make on the contribution made by Members opposite is that on many occasions Mr Isola, during debate has criticised the Government for not taking decisions. He has criticised the

Government for not showing leadership. Now the Government is showing leadership, the Government has taken a decision and the Government will stand or fall by that decision. Yet we are criticised for not consulting them. As regards what I have heard from Members Opposite, these are what I consider, Mr Speaker, the only three points on which some comment is merited. Mr Speaker the decision to close Her Majesty's Dockyard has been made solely by Her Majesty's Government. It is a decision which is not of our making, neither of our choosing. I do not think anybody can say that any Gibraltarian or Gibraltarians as a whole have contributed in any way to the closure of the Dockyard. These are two things which are absolutely clear to me, I think, to most people. The first one being that naval work just cannot continue and will not continue indefinitely. That is a fact of life. We may not like it but it is true. The other fact which I think is also absolutely clear is that Her Majesty's Government decision to close the Naval Dockyard is irreversible. It is irreversible irrespective of whatever action we in Gibraltar can take, even to the extent, as hinted by the Honourable Mr Bossano, of civil strife. I don't think that decision can be reversed in any way. I think really, Mr Speaker, that that is the crux of the matter. The starting point therefore is that the Dockyard is going to close and as a result of that closure there will be a direct loss of jobs and a clear lowering of the standard of living in Gibraltar. In effect, the closure will have a disastrous effect on the whole of our economy because, as Members know, the Dockyard is the largest export earning sector of our economy, generating some 20 to 25% of Gibraltar's export income and economic base employment. This would mean that all the efforts that have been made in the last decade to improve the standard of living in Gibraltar, to improve our way of life will be wasted in a very, very short period of time and Gibraltar will become bankrupt. That is the reality following the closure. On the other hand, Mr Speaker, Her Majesty's Government is constitutionally responsible for the financial and economic viability of Gibraltar as a dependent territory and it has committed itself to a policy of sustain and support following the closure of the frontier and the ensuing restrictions. Her Majesty's Government has made it clear that they are prepared to honour its commitments and its responsibilities to Gibraltar. It is not only just the Honourable and Learned Chief Minister telling the House. Members opposite have read the Hansards of the House of Commons, have heard the speeches which have been made and they have met Mr Stewart and other Members of Parliament that have come to Gibraltar. I think that there can be no doubt as to their honesty as far as abiding by their commitments and to their responsibilities. It is the British Government's view that the largest, and I stress, the largest single project which can help our economy following the closure is commercialisation. That is a view which we all share. Although as a separate and independent project, and that is totally divorced from the fact that the Dockyard is going to close, commercialisation is welcome because it would enable Gibraltar to move to a more natural economy and would help us to achieve our aims of restoring our economic self-sufficiency, nevertheless it does fall short, on its own, of filling up the vacuum and the gap which is left by the closure of the Dockyard in economic terms. I would say further that the principle of commercialisation as a project on its own is clearly not a viable alternative to Her Majesty's

Government. Commercialisation involves a change from a fixed to a variable export earning, that is, a move from an artificial to a natural economy. Therefore, as a direct result, Gibraltar will be obviously subject to world trends and international pressures. Ship-repairing industry is a cyclical one and, as we are all aware, there is at present a serious recession in this industry. Now, to this there are two schools of thought. The first one is that we are entering the industry at the worst possible time. Yet, on the other hand, one can say that it is better to enter now and await and be prepared for the inevitable upturn which must come. In any event, I would repeat that commercialisation as a project entirely on its own and as an alternative to Her Majesty's Dockyard is questionable due to the uncertainties that there are. What, Mr Speaker, is required, or what the Government has put forward to the British Government and has been accepted, are two things. Primarily we need help from Her Majesty's Government to ensure the success of commercialisation and we need financial help in its initial stages. I think, as far as that first point is concerned, that this has been achieved. Consider the package, Mr Speaker. We have the one year postponement. We have the availability of £14m of work for the first three years with the additional amount of $\frac{1}{2}$ to £1m as an on-going thing - and I would stress that the £14m is at today's prices - We will be able to tender for future work on the same terms as UK yards. The dockyard land and assets required for the commercial yard will be handed over free of charge - I know it is very nice and I agree with what Mr Bossano said that the land is ours but we must be realistic. We have achieved that. The land has been handed back to us. It is an achievement. We have Her Majesty's Government commitment to contribute a total of up to £28m to meet the initial costs of conversion and other ancillary costs. On the whole, I would say that, as far as the first priority was concerned, that has been achieved and the negotiations, as far as the Gibraltar Government is concerned, have been successful to that extent. But the Gibraltar Government felt that that in itself was still not sufficient and therefore what we feel is that we need something else which would help us, Mr Speaker, to diversify our economy. Let me say first of all that this business of diversification is not a very easy matter for Gibraltar due to its size and due to the fact that we possess no natural resources which we can exploit. We have I think, apart from Defence spending in Gibraltar, looked towards light industries and more important we must look to tourism. For all these things we need the land. As Mr Canepa has mentioned, and I agree entirely with him, in order to get the land we must stop the MOD's stranglehold on land which it has in Gibraltar. Again, as far as this side is concerned, what the Gibraltar Government was asking as regards the diversification of the economy, in a way, has also been met, Mr Speaker, by Her Majesty's Government. We have, again, the question of Rosia, in respect of which the land is free of charge and there are no reprovisioning costs and we have Queensway as well. Not only have we got this virtually straight away but we have several commitments. We have a new committee which is being set up in order to try and investigate and speed up the handing over of further lands which the MOD have surplus to their requirements, or non-essential, and which can be handed over to the Gibraltar Government in order to enable us to diversify further our economy, which is something that is absolutely essential if Gibraltar is to survive for many

years to come with a closed frontier. Having said that, Mr Speaker, I think that the package will go a long way to filling up this gap and it will go a long way to minimise the number of jobs that will be lost following the closure. It will also go a long way to try and maintain our present way of life and our standard of living. I honestly feel, Mr Speaker, that the package which we have been able to obtain is an excellent one, under the circumstances. If I had the choice, I would say that I would like the Dockyard to remain open for another fifty years. We know that that cannot be. Therefore, under those circumstances, I think the deal is a good one. However, Mr Speaker, for the deal to materialise as a good deal, we have all got to be prepared to work for it. It cannot be a half hearted effort, from any Member of the House, from any person or from any Gibraltarian. We have all to pool our resources together because, after all, nobody else is going to do it for us. I think, Mr Speaker, that Gibraltar can and Gibraltar will make it despite the closure of the Dockyard and despite the Spanish restrictions. I stated at the beginning of my contribution, Mr Speaker, that Gibraltarians have not contributed in any way to the closure. If commercialisation and the package is not accepted, let us all be quite clear of the consequences for Gibraltar. The Dockyard will close and we shall have nothing in its place. The number of jobs that will be lost will be tremendous and it will be a total disaster for all. I urge people not to contribute towards our downfall. I urge most sincerely the Honourable Mr Bossano, who unfortunately is not here in the House, to reconsider the position which he took yesterday because I noticed a slight change in his contribution today. I think he is embarking on a course which can only lead to absolute ruin for all of us here. He stated yesterday that it is unfair to hold a pistol to workers' heads. I refute that entirely Mr Speaker. That is not what the Government is doing in any manner or form. The Trade Unions are entitled to stick to their policy of ensuring that no jobs are lost. We all want this. We want something even better. We would like more job opportunities, more jobs to be available. We go along with that. However, Mr Speaker, this must be done with the full knowledge and acceptance that the Dockyard is going to close. I think it is a fundamental error of judgement not to cooperate thinking that, in doing so, in frustrating the project, in frustrating commercialisation, in not allowing commercialisation to start off, the Dockyard is going to remain open. That is a very serious error of judgement, Mr Speaker. Negotiations for working practices should commence with good faith of both sides, as the Honourable Mr Canepa has said, Appledore are in fact employed by the Gibraltar Government. They are answerable to us. They are Managers and they have a duty to discharge as well. It is therefore not a question of Appledore dictating one hundred per cent on working practices. This is why I say that we need good faith on both sides. If these negotiations are conducted in this line, I think commercialisation could and will work. Mr Speaker, I have absolutely no hesitation in supporting the motion.

HON A J HAYNES:

Mr Speaker, I will, if I may, remind the Members of the motion which we are debating. The question before us, really, is that this House resolves that the offer be accepted. It strikes me, Mr Speaker, that there are only a limited number of logical reasons why the questions should be posed and answered in the affirmative. Among those potential reasons for accepting the motion as drafted one would include that one must resolve to accept the offer because it is a viable proposition and it has been shown to be viable. That would be the first reason for accepting the motion. The second reason for accepting the motion would be that it is proper to accept the offer because this is a deal which was envisaged by all concerned and it represents the culmination of a Gibraltar view on which there was broad agreement. Finally, Mr Speaker, I can see that we would be required to accept the offer simply because it is the best deal that could be negotiated. Regrettably, Mr Speaker, these three reasons, and I can see no other reasons, for accepting the offer have not been impressed or outlined by the Government and we have not been given evidence to support a decision on the basis of any of these three propositions. May I, Sir, consider the one which reads: This particular one, Mr Speaker, which is the most technical, which is the one that has concerned our representatives for two years and which has been the subject of reports and little displays and shows and all the rest of it, regrettably is absent from the Chief Minister's Statement and regrettably, as has been said by my Learned colleague, must be absent from ours because we are sworn to secrecy. It is, on the evidence and the information included in the report which has been made available to all Members, on the information available in these reports that judges can evaluate the viability of a commercial venture. It is sad, therefore, that this information is not being publicly debated in this House, especially because logic demands that the offer be assessed as against its economic viability. For instance, one would have expected the Chief Minister to address himself on the question of the world shipping recession and on his views or the views of his experts on that particular subject. We are being asked to accept a venture which is going to repair ships, Mr Speaker, as Appledore do. They do nothing else, they repair ships. We are also told, Mr Speaker, that there is a world recession of considerable magnitude and that one of the severest industries in this recession is shipping generally. In that, obviously, must be included ship repair. Yet we have heard no statement from the Chief Minister which indicates a rise in the spiral of ship repair. We have no reference to reasoned arguments on the subject. Nevertheless common sense, I think, entitles one to make conclusions without the use of reports and it is fair to say that, for the most part, the viability or otherwise of the proposed commercial venture has been there for all to assess and evaluate without the help of the experts. The experts only confirm your views or, at least, produce facts and figures to that effect. Another matter which, in fact, has been referred to by the Chief Minister is the high productivity levels required. We have been told that it is a sine qua non and its importance is associated with the finance for the project. What the Chief Minister has omitted to state in this debate or in

his contribution to the debate is the importance of high productivity levels being achieved, far and apart from the fact that the British Government won't release the money if not. The importance of high productivity levels is inherent in the viability of the enterprise and the levels which have to be attained is also a matter of considerable importance and on which the experts spend considerable time. We have not been told how the package which the Chief Minister has brought before us is going to achieve this requirement in productivity levels. In fact, the matter has only been briefly dealt with. Another point which is important in assessing the viability at a commercial level would be the good managerial ability of the proposed operators. Again, on this score, we have not had a detailed analysis of the preferred operators given to this House by the Chief Minister. On the contrary, what we do have is a serious doubt posed by my gallant friend, Major Peliza who, on a search of the company, found that the financial situation of the company is, without being suspicious, not particularly strong. As to the managerial ability of that company, reports tend to be very promising and on the whole we would concur with the view taken by the experts on the managerial ability of the preferred operators but we regret that the Chief Minister in his debate and all his members in their contribution have not stressed this commercial aspect nor have they related it to the proposal given before us. Again, Mr Speaker, another aspect which had to be considered in assessing the viability of the venture is the question of Spanish intervention. We have along history of Spanish intervention in commercial projects and the likelihood of such intervention being contemplated and the effects of any possible intervention have not been examined by Members of the Government. Again, here I would point to a contribution made by my colleague, Mr Restano, who has referred to an article in a British national paper which refers to work being commenced in Algeciras which could, as the title of the article says, threaten the scheme for the Gibraltar ship repair yard. Again, the Chief Minister has not turned his attention to this subject. Again, the Chief Minister has not considered or discussed the other commercial proposition which is for a multi-purpose user for the Dockyard. I think that, generally speaking, in Gibraltar the common sense view is that it must be preferred. It must be better to have an operation which does not have all its eggs in one basket. One that has flexibility. One that has a multiple user and will make it more difficult for any Spanish intervention to be successful and one that would be able to take up the slack when there is a recession or a decline in any one of the particular users, increasing the load in a more successful user. We have heard, Mr Speaker, no argument on this. However, we do have information contained, not so much in the reports, in the adverts made by those who did propose a multi-purpose user on some of the possible options that were open to us as part of the commercial venture to the use of the Dockyard. The most important part, as far as I am concerned, Mr Speaker, was the potential of the Dockyard as a liner base. One which should be far superior to the present waterport berth. This also, Mr Speaker, will tie in with the tourist infra-structure which the Government say they would like to strengthen. The other interesting factor in the multi-purpose user was that of the grain trans-shipment, an operation which, suprisingly enough, is particularly suited to Gibraltar because of the depth of the waters in our harbour.

When one examines the basic commodity which is the harbour, one must consider any and every particular facet of the Dockyard which makes it superior to any other harbour or port in the neighbouring areas. One of the most important assets that we have is hidden under water because it is the depth of the water. There are very few ports in the entire Mediterranean which can boast of the depth of berthing facilities that we have in our harbour. That depth makes it ideal for handling ships with a very large depth and, as such, one would assume that any user which was designed to cater specifically for those ships with a large displacement of water would be an interesting factor to consider. Again, Mr Speaker, none of the commercial reasons which I have stated up to now for accepting an offer were mooted or have been mooted by the Government, nor have they ever been mooted, Mr Speaker. This is the first debate on the viability of the Dockyard and even at this late stage we are not given an analysis of the commercial propositions which the Government would ask us to accept. Mr Speaker, another reason for accepting the offer on a commercial basis alone would be evidence from the Chief Minister that he has taken every personal effort to ensure that this was the right decision. I would have, for instance, liked to have seen a visit by Government delegations to other ports, to Singapore, to Hong Kong, matters such as that. A genuine show of effort, a genuine constructive programme, a programme of enquiry and especially, Mr Speaker, in the circumstances which face Gibraltar where suddenly, overnight we have to find a new landlord for the port. Instead of hunting around and looking at all the options at first hand, we have allowed ODA to dictate to us, Mr Speaker. Mr Speaker, I would also have expected in the debate to hear more of Government's participation or proposed participation in the venture, for them to show us their role and why their role would lead to viability. In this respect, the most significant paragraph in the Chief Minister's statement, in paragraph 60, which reads: 'It is up to us as Ministers and to the Civil Service to ensure that we achieve the greatest possible efficiency and sense of urgency in exploiting the opportunities for diversification of the economy which are now available to us and which we have the highest moral duty to pursue as a necessary complement to the efforts which the Dockyard workers are being called upon to make'. Well, if one goes by Government's past record in this area, one has little hope, Mr Speaker. The Leader of the Opposition this morning or earlier on this afternoon made an exposé of the failures that Government have encountered in diversification and there is no evidence which shows that this is going to change. It seems, therefore, that the only job the Government are giving themselves in this venture is doomed to failure anyway'. So, Mr Speaker, if one were to judge the merits of the motion that we accept the offer, purely on commercial grounds, we cannot say that we have had any evidence given to us for accepting. We can say that we have had access to reports. We can say that we have had opportunity to examine these reports. In the case of the latest report, we had 24 hours whereas Government had a month. If we have had no commercial reasoning for accepting the motion we must turn to the other reason, or potential reason, for accepting the motion, and this is that it is as a result of a previous agreement. If, as I have stated earlier, the case was that we had made or come to some broad form of agreement and that Gibraltar had made

representations, made its own Gibraltar view and this view included recognition of the necessity for closure or the irreversibility of closure but that the Gibraltar view said: "Remember how we all agreed that we would accept this, well, this is what I have got". However, we did not agree to anything, Mr Speaker. If one examines the history leading up to this proposal by the Chief Minister, one examines the two year period in which the Government have been asked repeatedly by a number of bodies to form a Gibraltar view, it will be in the light of a decided Gibraltar view that the Chief Minister could come back to us and ask for our approval. The first persons to be included in such a debate or a Gibraltar view would be, one assumes, the persons most directly affected, the workforce at the Dockyard. Regrettably, however, there has not been, to our knowledge, close consultation with the Unions at the Dockyard. Rather, we have had the Unions exploiting a vacuum of political leadership at a time when the Government would make no statement, would take no view, would form no decision. It was during that political vacuum that the Unions were, in my view, wrongly lead by Mr Bossano to form or to take a view which I classified as suicidal. I am glad to see the Minister for Health echoing the view of the Opposition which was expressed over a year ago and which they have now finally come to realise. Again, Mr Speaker, the sorry history of the Chief Minister's shuttle diplomacy - I think it was classified as that in one of the papers and I thought it was jolly good - all in absolute secrecy, Mr Speaker. The only ones who knew what was going on was Spanish television. It was rather upsetting. Again, albeit that we passed the motion in February in which we said we were going to have consultation over it, we did not have any idea of what the proposals taken to the Prime Minister by the Government were. We did not know what the Prime Minister was offering or what the Gibraltar Government was asking for. Mr Speaker, I am glad that this is frankly accepted by the other side because it is the second logical premise under which we would be obliged to accept the motion. The premise, if I may repeat it for the benefit of the Minister of Economic Development, is that this House would have to resolve that the offer be accepted because this is the deal which was envisaged by all concerned and on which there was broad agreement. Now the Minister has finally confessed that there was no broad agreement. There was no attempt to obtain a broad agreement but that is not the fault of the Opposition. The Leader of the Opposition's willingness to attend, with the Chief Minister, the talks in London is indicative of our willingness to accept a majority view. I think it is most unfair of the Honourable Minister for Health to suggest that all he wanted to do was jump on the bandwagon of a tremendous offer. I don't think it was a tremendous offer. Is he telling us that the Chief Minister has come back waving a little paper saying: "Viability in our times"? Maybe we do have another Chamberlain. Mr Speaker, on this point, before I lose my further thoughts, the lack of co-ordination - and I think it is a serious charge that one now must level at Government - which would exclude the possibility of accepting the motion on the premise of previous agreement is apparent even at this stage. After Government have already come to an agreement, there is still a tremendous amount of disorganisation. It is apparent even as between them and the British Government. If I may make myself clear and refer Members to the Chief Minister's statement, paragraph 50 which occurs on page 18 says: 'Sir, I referred earlier to the offer

made by the British Government to contribute up to £28m to meet the initial cost of conversion of the Dockyard and other costs, and I said that the funds of the project will only be committed after satisfactory assurances have been obtained from the workforce on new working practices. The funds will then begin to be made available". On close examination of this point by Mr Bossano, the Chief Minister said that this was a condition stipulated by the British Government. One should then read the statement made by Mr Stewart at the House of Commons yesterday at the same time as the Chief Minister was telling us that the British Government was demanding that the agreement be first reached. First, in answer to Mr Duffy he said: "A no strike clause may be included in the conditions put to the workforce by the commercial operators". It does not seem as though it is the British Government. Then later on again, in answer to Mr Kevin McNamara, the Honourable gentleman refers again to the no strike clause and other conditions and says that they are matters for the commercial operator and the workforce. I see that the Gibraltar Government do not realise that it wasn't the British Government who were imposing these conditions, it was the operators. I think the . . .

MR SPEAKER:

No, with due respect, I do not think that anything was said in this House to warrant that statement. I do not think anything has been said in this debate to warrant that statement but, perhaps you make this by way of comment and nothing else.

HON A J HAYNES:

As I understood yesterday, Mr Speaker, this "no strike clause" or agreement was a condition stipulated by the British Government, and without which . . .

HON CHIEF MINISTER:

If the Hon Member will let me explain this matter because, I mean, we can hear a lot of ideas which may or may not be sensible but let us get the facts right and then from there we can say what we like about it. It is not the question of the British Government putting a 'no strike clause' or any clauses at all. What the British Government have said is that they will start producing the money for the conversion when practices have been negotiated with the workforce that will make viable the commercialisation of the Dockyard. Now, what those practices are will be the matter of negotiations between the Dockyard workforce and the Operators who are the people who have to know what the practices are, in order to become competitive.

HON A J HAYNES:

Mr Speaker, it is the same in different words, as I understand it. I see it as a classic example of passing the buck. It is not us who want to elicit from the workforce this 'no strike

condition'. The British Government take the same attitude and Appledore take the same attitude. No one is obliging the workforce to sign this 'no strike clause' then. Will the Chief Minister say on whose insistence is the 'no strike clause' being included?

HON CHIEF MINISTER:

Oh no, the British Government and the Gibraltar Government can be intermediaries if necessary. The Gibraltar Government will use all its offices to try and help the workforce to get an agreement. I think, perhaps, the Honourable Member should look at it against the background of the situation in England yesterday when certain proposals were made for a new review body for the nursing staff and so on which have a condition of 'no strike clause'. This, I think has highlighted these references about 'no strike' in this question. Whether that is required or whether that is agreed between Appledore and the workforce is a matter for them; whatever they require or whatever is acceptable to the Union. I have not been told at any stage that there must be a 'no strike clause' in any agreement. I have not been told what the practices are. The practices must be the practices that will make the commercial dockyard viable.

HON A J HAYNES:

Will the Chief Minister say whether his Government is prepared to impose a decision to the effect that satisfactory assurances as to work practices be required of the workforce.

HON CHIEF MINISTER:

Yes, we want these satisfactory work practices. What those are is at the judgement of the Operators. The workforce, no doubt, will start bargaining to come to terms. We are not going to impose any condition nor are we going to be parties of any negotiations.

HON A J HAYNES:

I thought that, Mr Speaker, it was that particular point I wanted to stress. Nobody particularly wants, it seems, to take the responsibility.

HON CHIEF MINISTER:

Yes, we want to take the responsibility. There has not been one word on this side about the contribution of the workforce, despite the fact that the Leader of the Opposition goes round parties saying that we are afraid of confronting the Unions and what we want here is a Thatcher who will do to the Unions here, what Mrs Thatcher does to the workforce in England.

HON A J HAYNES:

I take the Chief Minister's point, Mr Speaker. So, the Chief Minister, and not us, is responsible for the following words: "I am sticking my neck out more than ever before on this question of commercialisation and related issues, I will stand or fall by them". Well, he is not doing much to stand by them, Mr Speaker, if he is not prepared to impose his decision. You do not leave it to others. It is not my view of taking a firm stand. One does not take a firm stand behind the skirts of the Operators, Mr Speaker.

HON P J ISOLA:

If my Honourable friend will give way, the Government has read the Appledore Report, the Government have read the conditions upon which Appledore is prepared to operate and they know full well what the position is.

HON A J HAYNES:

Mr Speaker, not only, as I said, is there no Gibraltar view which was available for the Government before and which would now oblige us to stand by the Agreement but it seems that there is no Gibraltar view as to the future. This question as to who is going to finally take the decision as to working practices, is still in the bag. It is a very serious question mark which hangs over viability, if the same Government which is responsible for government in Gibraltar is not in fact going to take control. In the same way that the fruits of the previously negotiated agreement between all Gibraltarians would have been a compelling reason for accepting this motion, by the same token, a hasty and instant debate is a very poor reason for accepting this motion. We feel that we have been stamped into a position by the Government. Perhaps the lack of predecessors, on the part of this administration, for the Gibraltar view is symptomatic of the reluctance to face up to problems and of the hope that by ignoring them they will go away. Unfortunately, this has crept up behind and caught up with the Chief Minister and his cabinet. So, Mr Speaker, one turns to the third logical reason for accepting this motion and accepting the terms offered by the British Government. That, Mr Speaker, as I outlined it would be that the offer outlined by the Chief Minister is the best field that could be negotiated. Mr Speaker, I think that point has been answered by the Chief Minister himself and by the Members generally and really the answer is that it is not the best one, it is the only one. It was not only the best offer, it was not negotiable, Mr Speaker. There were a few frills that come on and off. If that is the case, and this is, in fact, an offer that we could not refuse, Mr Speaker, in popular terms, then what need is there for us to accept it. We have to take it whether we want it or not. I don't see any element, in the offer, which is negotiable. I believe, Mr Speaker, that this difficult position in which the Government find themselves today, where they have no alternative but to accept the terms, is a difficult position for which they, in part, are responsible. This history of the negotiation of an offer has to be

examined in the light of previous similar attempts. The first one, Mr Speaker, one which has been alluded to by my colleagues is the question of British Nationality. Perhaps younger Members will accept that 'A' levels and other exams seem impossible until they have done them and when they have done them they seem to be taken for granted, and so on. It is human nature to take things for granted once they have been achieved. This is also true of the British Nationality Act. It is now taken for granted that we were bound to win and that that is why we did. In fact, Mr Speaker, I remember the general view held by all those in Gibraltar and all those in England that it would be impossible to reverse a decision of the British Government of this magnitude, more especially since the considerations were more widespread than the interests of Gibraltar and they included the relations of Hong Kong and others. The mountain was insuperable, Mr Speaker, and yet, as a result of a well coordinated, well planned and long campaign the decision was reversed. Regrettably Mr Speaker, that was not the case on the matter of the Dockyard decision. I would inform Members of this House that as late as March, 1982, many months after the decision was known to Members and when I was in the House of Commons on a seminar, I was astounded by the lack of information on the question of the Dockyard. The vast majority of British MPs and the vast majority of British MPs friendly to Gibraltar, with whom I made contact had no idea as to what the Dockyard meant other than they automatically assumed that we wouldn't like it. They had no conception of the difficulties that we would encounter at an economic level. They had no conception of the effect that this was having on Gibraltar morale and this lack of information is, for the most part, the responsibility of the present administration. In fact, I was told by a senior journalist who covers the House of Commons that that generally seems to be the problem with Gibraltar issues. The information is never available to Members and is never circulated properly. Furthermore, Mr Speaker, no effort has been made to bring out large numbers of MPs to see Gibraltar, not by this administration.

HON CHIEF MINISTER:

We had a party coming, but it had to be cancelled because of a small incident of a general election.

HON A J HAYNES:

Mr Speaker, that was in June this year. The problem has been outstanding for a long time and when I came back from London I knew that some of them wanted to come. I made the necessary enquiries but nothing was followed up, Mr Speaker. This lack of information, this apparent apathy, this apparent acceptance of the decision has weakened our own Gibraltar Lobby in the House of Commons. As such, Mr Speaker, an effort which is two years late, to change the decision or to acquire better conditions was ill-conceived. Furthermore, this, in my view, childish decision not to take the Leader of the Opposition and, with all due respect, my friend and colleague, Mr Bossano, to England to knock on the Prime Minister's door was a serious and grave error. Therefore, Mr Speaker, how can Members of this side of

the House be convinced that this is the best field possible when we know that for two years precious little has been done to change the decision. Precious little has been done to work up a Lobby. Precious little has been done to establish a Gibraltar Lobby on this issue. How can we now be convinced that two visits in one week, Mr Speaker, have produced the best results. Furthermore, Mr Speaker, we know that the improvements are as the Chief Minister said, £3m pounds and a year's deferment. This is my idea of the best deal possible. Now, looking at it in a cynical manner, you divide the millions of pounds that have been given to us, by the number of people in Gibraltar and it works out at about £1,500 per person and membership of Rosia for a year Mr Speaker. Mr Speaker, again, I do not think that we should be asked to accept the motion on the basis that this is the best deal that could be negotiated when all signs are that it is not. As I believe the position to be, we are being asked to prop up Government because they have no choice in accepting it and they want us to rally round them. Then, my only advice, Mr Speaker, is to go to elections.

HON H J ZAMMITT:

Mr Speaker, Sir, listening to Members opposite I have, during the course of the afternoon, come to certain conclusions which I think, as I will amplify later on, have been ratified by the intervention of the Honourable Mr Andrew Haynes. I would like to commence, Mr Speaker, by saying as my Honourable friend Mr Canepa said: 'It has not caught us by surprise to see that the official Opposition took this kind of stand in this motion'. I think, equally, we were totally aware of Mr Bossano's consistency throughout. Whether we had got £14m, £140m or 5 years, Mr Bossano would have opposed it from the moment go so I can see that consistency. What one cannot understand is the inconsistency of the official Opposition because it appears that if we had come to the House and said in one breath: "We were given 5 years extension, £56m for modernisation, £28m over the next five years on RFA fittings and double everything else, the fact that the Honourable Mr Isola was not invited to 10 Downing Street, it seems to me, irrespective of whatever offer or whatever arrangements the Gibraltar Government made, would have never been good enough. Alas, should the Honourable Mr Isola have gone to 10 Downing Street and have got the year, just the year's extension because he admits himself that they thought they had six months, that would have been eureka. Eureka, we have found it,

HON P J ISOLA:

That is what the Honourable Member says about tourism increases every year.

HON H J ZAMMITT:

I'll go on to tourism later on, Mr Speaker. I am talking of consistency because it is made abundantly clear, to any person listening to the debate that it is difficult to understand what kind of deal would have satisfied the official Opposition. What

kind of deal. There appears to be nothing more than a personal vendetta because whatever is done on this side of the House, irrespective, is bad. We would have done better. Mr Speaker, some of us have pretty good memories and others better than those and we have been accused that we have not pressed the British Government enough, we could have got more, particularly by the Hon and Gallant Major Peliza. Well, I remember clearly and vividly, when he was Chief Minister of Gibraltar during those 2½ years of glorious Gibraltar prosperity, that he told the public of Gibraltar: "We must not fight the hand of he who feeds us". We must not fight the hand but when Britain gives you £28m, £14m another million pounds, land, reprovisioning of the sites at their expense, we must bully Britain further. That does not satisfy them or does not satisfy certainly the Honourable and Gallant Major Peliza. I can assure the Honourable Member that there are things that they have mentioned that, of course, have come our way and we have considered. It is no secret that no member on this side of the House, and I dare say, subject to being corrected, no Member on the other side of the House, not one of us wanted a closure of the Naval Dockyard. Not one of us wanted it. We would have liked the Naval Dockyard, despite Mr Bossano saying two hundred years, to have remained yet another two hundred years in Gibraltar. Whether we have to be grateful to them or them to us, we certainly had a way of life. Gibraltar had modelled itself on the way of life that seemed to suit some people. None of us wanted it, that is the first fact. The second fact which I think is a reality, and let us not kid ourselves, is that we all knew, and I am sure the Honourable Mr Bossano with all his influence in the Trade Unions in Great Britain, he himself was convinced, we were thoroughly and totally convinced that the Naval Dockyard in Gibraltar was closing. Whether it was March 82, December, December 83 or 84, a time had to come when due to circumstances beyond our control the Naval Dockyard would be coming to an end. Therefore, under those realities of life, one had to look at the whole context of the situation and try and get what we considered, what had been recommended to us as the only, the best, and I would use the word "part", alternative. I agree with my colleagues here that we do not think that the Commercial Dockyard will fill the vacuum left but partly take up the vacuum left. Therefore it is better than having nothing at all. Rightly so, no one opposite has said whether we should start growing mushrooms or pansies, primroses or primulas. We just have not been able to find an alternative better than ship-repair that would suit Gibraltar's demographic position.

HON J BOSSANO:

If the Hon Member will give way, surely that is because the Government and, indeed, other Members of the House accepted in a previous motion in this House that in looking at any alternative that priorities of the base had to be put first. The Honourable Member must remember that when looking at alternatives that is a condition that, of course, limits him. If he is going to limit what Gibraltar can do to what the MOD will allow him to do then obviously his room for manoeuvre is very limited.

HON H J ZAMMITT:

No, Mr Speaker, what I mean is that there are certain facilities, i.e. the dry docks, which obviously are there for that kind of business. They could not be converted into greenhouses. Therefore, shipbuilding was considered to be the best. One thing has been mentioned, and rightly so, by invariably every member that has spoken and that is the shipping recession. There is a shipping recession without any doubt but there is a world recession in practically anything that you can think of. There is even a water recession. There is labour recession. I don't know if I am speaking with total accuracy but I think the figure now is over 20 million unemployed in Europe alone; over 20 million unemployed. Where I find merit, particularly in the efforts of the delegation, is that, whether we think that Britain owes us a living or the world owes Gibraltar a living, there are very many who certainly do not feel that way, very many. By looking at the House of Commons Report and questions, those people who have defended us on the Nationality Bill certainly do not feel that they owe us a living in perpetuity. I think we have to be very careful about that too. In saying that, Mr Speaker, all these recessions taken into account, we have to find a way and I think it was found, in fairness to the British Government - and I am not the most complimentary individual - to the MOD or the land factor or other factors which I think are well known. I think that the deal that Gibraltar has had has been second to none in other areas within the UK, not only in shipbuilding in dockyards but where factories have closed down without any other form of alternative employment, without any other form at all of livelihood. We can all talk of the dole in England and the comparison between the dole in England and in Gibraltar but the concern that the British Government has shown to Gibraltar's dockyard it certainly has not shown to places like Chatham and the others. I will not dwell on that because, again, I know it can be argued both ways and I can see my friend over there smiling. We must take that into account and not be all that ungrateful when one talks of finding or trying to find a way out from our present predicament. Mr Speaker, I think the intervention of my Honourable friend, Mr Canepa, which was not only an intervention but an excellent exposition of the whole affair, clarified an enormous amount of the Government's position and indeed, it is difficult at this late stage not to be repetitive. However, I think there are a few points which have to be amplified. First and foremost, we have been having land from MOD, reverting to the Crown in the civil capacity in tidily bits around town, the odd house here and the odd house there but we have never in the history of Gibraltar been given by the MOD, and I put that in inverted commas because I still say they are giving back our own land, prime land which is attractive, and I can say that Mr Speaker with some authority, to developers. I can also tell Members opposite in case they are not aware that I do know developers who are interested in developing areas such as Rosia Bay and Queensway for whatever touristic, in particular, or sea-front amenities are thought fit by Government. Let us not all just look and turn round and say that, because we had no tenders, successful or otherwise, for the Command Education Centre that everything is black and grim. It isn't. There are still a lot of people interested in putting money into Gibraltar, and, in fact, Mr Speaker, interested to the degree that they very much would like to see Government showing the kind of lead that we are

asking this House to take in this motion. They would like to see us showing confidence in ourselves as a people before we ask them to pour millions of pounds into our Gibraltar. The land situation I particularly receive with open arms. Mr Speaker, I think the Honourable and Gallant Major Peliza and then the Honourable and Learned Mr Haynes spoke of the possible Spanish intervention in trying to bring our commercial Dockyard into economic ruin.

HON J BOSSANO:

I would like to intervene before the Hon Member passes on. It seems to me, Mr Speaker, that the motion, in fact, does not ask the House to say anything at all about the land or about the possible potential touristic development of the land. The motion says that the House accepts the offer to establish a ship-repair yard. Maybe the land that the Government has now got available for development is the best land they have ever had and it maybe that there is a possibility of developing it which has not existed before. I am not in a position to judge that question but surely, it is not an argument to say that because Rosia may have better potential for development than the Education Centre, it follows that the ship-repair yard is going to work.

HON H J ZAMMITT:

He is absolutely right, Mr Speaker, the trouble is that the Honourable Mr Bossano was not in the House this afternoon when Members opposite had said that despite the fact the MOD may hand back land to the Government of Gibraltar, we would not be able to get developers to do so. I am just answering that point, that there are people interested in developing prime sites such as the ones that are being returned to us. It is not that I am saying that I align that to the efficiency of viability of the Dockyard. Mr Speaker, going back to the Honourable Major Peliza and Mr Haynes on the question of possible Spanish intervention, we thought of that although it may strike the Honourable, Learned and Eminent My Haynes. We do think now and again, much to your surprise. I am afraid that the advice that we received was not very disheartening. In fact I do not think Spain is going through a glorious economic boom during this era and I think that before they started subsidising either Cadiz shipyard or the Algeciras one that hasn't yet started, they might think of subsidising Sagunto where the unemployed 4,500 men have not been provided with an alternative or anything else. I very much doubt if Spain would be prepared to subsidise a Spanish ship-repair yard ninety miles up Cadiz or across the Bay, certainly, for at least three, four or five years because we know very well that there is 50% of injection already guaranteed by the British Government into our ship-repair yard. So I don't think I would like to labour very much on that Mr Speaker.

HON W T SCOTT:

If you could give way just for a minute, it seems to give the impression that it is not Spanish Government policy to subsidise any company and we have a very recent one, Rumasa, which is a conglomerate far bigger . . .

HON H J ZAMMITT:

That was not subsidised that was a national take-over. Anyway, Mr Speaker, I am just trying to answer that I do not think that is a major point that we would have to consider. Mr Speaker, it is not a major point, not with the guarantee, Mr Speaker, that we had, both on the offer and in the statement made by Mr Stewart in backing the economy or whatever, should anything fail. Therefore, I do not think that that is very valuable. Mr Speaker, what we do find coming out, and I must omit the Honourable Mr Bossano from this for the reason I explained earlier on, is that the Official Opposition are really vexed about this question of the broad agreement. I am satisfied, as I am sure very many people are, that if - never mind consultations, never mind information - the Honourable and Learned Mr Isola would have been allowed to go to England, then everything would have been all right. It is obvious, Mr Speaker, that that is the whole upset of the Honourable and Learned Leader of the Opposition. Mr Speaker, I do not know - and I am not going to repeat the words that the Honourable and Gallant Major Peliza mentioned, existed between the right Honourable Mrs Margaret Thatcher and The Honourable Sir Joshua Hassan - I do not know what other views can be held but what I do know, Mr Speaker, and it may pain Members opposite, is that Mrs Thatcher does hold Sir Joshua Hassan in very high esteem in Great Britain and in Gibraltar. Whether it pains the Opposition or not, it was not because of Sir Joshua's blue eyes but it was because of his political acumen, his fibre and his fairness in the 40 years that he has ruled Gibraltar. It is there, Mr Speaker that Gibraltar stands fairly and squarely among the reasonable people in Britain. Not being accompanied by anybody else, let me assure you, would have got us any more or any less. I think Mr Speaker, that a time will come, not in the too distant future, when the people of Gibraltar, reflecting upon this offer coolly, may consider that were it not for the presence of Sir Joshua Hassan in Gibraltar we might have gone through a much greater disaster than any of us would have liked to have endured.

MR SPEAKER:

Well gentlemen, I think we have had a long afternoon and I think that perhaps it would be a good time to recess until tomorrow morning at 9 o'clock.

HON P J ISOLA:

I think, Mr Speaker, that we should meet at 9.30 because we are meeting all the time at the convenience of the Government side. I mean, normally it is unthinkable that the House should have sat till 9.30 pm and normally we would not have sat. I did protest to you about sitting so late and I suggested that we should recess at 8 pm and then start at 9 am. However, if we recess at 9.30 pm and we start at 9 in the morning it gives nobody any time to deal with urgent matters that they may have to deal with.

MR SPEAKER:

With respect to the Honourable Member, the Leader of the Opposition, I have heard what you have to say. It is not inconceivable that we should sit until 9.30 pm because we have sat till much later and I have recessed until 9 o'clock tomorrow morning after sounding the views of the Chief Minister whose prerogative it is to decide when we meet. The same thing happened yesterday afternoon. We are talking about half an hour. As I explained this afternoon, due to a slip of the tongue I did give you that half hour yesterday and I feel that we should not waste our time on whether we should meet at 9 am or 9.30 am. I think 9 o'clock tomorrow morning.

HON P J ISOLA:

Yes certainly, Mr Speaker. Now we know that it is the Chief Minister's prerogative, so please do not consult me about these things anymore. It seems to me that the Chief Minister does what he likes, as indeed, he is entitled to because of his majority. However, let him not have this process of consultation which he never follows.

HON CHIEF MINISTER:

That is not fair, Mr Speaker. It may be that on one day or two days it may not be the way that the Honourable Leader of the Opposition likes it. I give way many, many times and he knows it. I have given way many times over the years. It so happens that this business must be finished quickly and that is all. Insofar as these prerogatives are concerned, yes, but I don't use that with a hammer. I try to persuade people but what I cannot do is, in deference to that, become a slave to other people who have not got that prerogative.

MR SPEAKER:

In any event we will now recess until tomorrow morning at 9 o'clock.

The House recessed at 9.30 pm.

FRIDAY THE 29TH JULY, 1983

The House resumed at 9.10 am.

MR SPEAKER:

We are now continuing the debate on the Chief Minister's motion.

HON W T SCOTT:

Mr Speaker, I think I ought to start my contribution by commenting on certain remarks made by Members Opposite on Wednesday and yesterday. As far as we are concerned, Mr Speaker, other than the 3 years RFA work and the increase from £11m to £14m which I shall go into in more detail at a later stage, all that the Government has achieved is basically a one year's stay of execution. It seems to me rather peculiar that the Chief Minister, and it was perhaps a pointed remark, on Wednesday when introducing the motion said: "I am sticking my neck out more than ever before". Later on he went on to say: "I will stand or fall by them". I think it is rather a shame and a pity that the Chief Minister made this statement after and not before the Hanging Bill in the House of Commons, Mr Speaker, a number of remarks were passed by the Honourable Maurice Featherstone yesterday and I am a bit confused. He was talking generally about the package and, I quote again, he said: "It was the best of a bad deal". My Honourable Friend on my right, Mr Gerald Restano, has already mentioned how in the House of Lords on Wednesday, Lord Trefgarne, on two occasions within a short intervention, described Sir Joshua's reaction and I quote again: "Sir Joshua appears to be very happy with the arrangements that have been reached". Very quickly afterwards he said: "I think that Sir Joshua is well pleased with the agreement that he has reached with the British Government". That, Mr Speaker, is very different to what the Honourable Member, Mr Maurice Featherstone, was saying yesterday when he described it as the best of a bad deal.

HON M FEATHERSTONE:

I said: "What could be termed the best of a bad deal". I did not say specifically that it was a bad deal.

HON W T SCOTT:

Yes, but it was termed by the Honourable Minister as the best of a bad deal. Mr Speaker, there is a further point that the Honourable Member said which also requires clarification. He said that 40 to 50% of the capacity of the Dockyard, for the first three years, would be through RFAs. The statement that was made, also by Lord Trefgarne, two days ago in the House said: "The work that we are providing will, in the early months and years of the new commercial Dockyard, be substantially all that it can cope with". There is a very great confusion here, we are talking about a workload double of that which was suggested and I would like some clarification, perhaps from the Chief Minister or the Hon Member opposite.

HON M K FEATHERSTONE:

If you remember the presentation we had from Appledore, they were expecting a workload increasing over the 3 years, obviously starting low and gradually getting bigger, but they were aiming at something like £30m over three years.

HON W T SCOTT:

Mr Speaker, with respect, that has nothing at all to do with the 40% or 50% of the capacity that the Hon Member mentioned yesterday and what Lord Trefgarne said in the House of Lords: "...be substantially all that it can cope with". There is a very great difference. In the early months and years there will be no other work, according to Lord Trefgarne, other than RFA work, that the Dockyard can cope with. That is the essence of this statement.

HON M K FEATHERSTONE:

The Hon Member is a little confused. He possibly has not seen Appledore's projections.

HON W T SCOTT:

Mr Speaker, there was a comment also, passed by the Hon Minister for Economic Development and Trade yesterday when he was talking about industrial negotiations and so forth. I think the words he used there was that Appledore or the management would have to negotiate with the unions. It is, perhaps, a little bit surprising for him to make that remark because a number of Members of Government opposite have - obviously they have not agreed with my Hon Friend on my left - at least said of him that he has been totally consistent with his fight over the Dockyard over the last twelve or fifteen months. He has gone on record, even as late as last Wednesday, in saying that as far as he is aware, although he was speaking as a politician, the unions will not negotiate with Appledore. He made it blatantly obvious on Wednesday night on television, what his party would do should they come into power. Mr Speaker, I think the Government is perhaps pulling wool over its own eyes if it expects the Transport and General Workers Union to negotiate with Appledore if, as we suspect, the stand that they have made up to now will not continue. I think it is invidious to think that any union can negotiate with a management set-up that imposes conditions on its negotiations with the union of a no strike or industrial action clause for four years. That, I think, even the Gibraltar Labour Party/AACR, hopefully, will find unacceptable as well. I think that if Appledore have any visions of ever getting this project off the ground, they will obviously have to think of negotiation at an individual level and not negotiate with the union. That is a totally different story. If that happens, then obviously the Union will perhaps have to think of what other tactics it shall employ, but that is up to them. Mr Speaker, there have been also a number of remarks passed on the land aspect of the package deal, particularly late yesterday evening when the Hon Horace Zammitt was talking. He gave way, rightly, to the Hon Joe Bossano when he went a little bit off target but I venture to suggest that in fact that there is an aspect of land which has very much to do with the Dockyard and which the commercial operator is not going to be using. It is perhaps indicative in that context, looking at the record of commercial private development that this Government has had. In passing that comment I think it would be less than fair of me not to make a remark regarding the Minister for Economic Development and say that the record that he has had in his Ministry has been

a very greatly improved one when compared to the ones that have been had by his predecessors. I accept that and I think he has to be congratulated on that. We have made that point in this House on other occasions. But notwithstanding that, Mr Speaker, the record of private sector commercial development is not as good. In fact, it could be described as reasonably dismal and certainly none of that development, other than one that I can think of, the marina, is revenue raising in itself. There was an opportunity, Mr Speaker, and there has been an opportunity, I think for the last nine months or one year, for revenue raising development within the area of the Dockyard, in a situation where the commercial operator was not requiring that piece of land. To this, the Government has given nothing other than lukewarm support. It has lasted for over twelve months, a lot of money has been spent by the intending developers and by past financiers and the Government has had no positive reaction whatever. To such an extent, Mr Speaker, that the same people have had to go over to Spain, they have already, or so I understand, been promised the land, they have been promised a good financial and fiscal set up to their advantage. The signs are that the final deal will be negotiated and signed very quickly. We all know what I am talking about, Mr Speaker. I am talking about the Solarex enterprise, the Solarex factory which not only would have brought export earnings to Gibraltar but would have provided, in the fullness of time, a very definite number of jobs and job opportunities to Gibraltarians. We have certainly not heard from Government, in the course of this debate, what their opinions are on this development, which seems to me rather sad. I think the people have the right to know in a public forum of this nature. I think I will give way now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

A point of clarification, Mr Speaker. I wonder if the Hon Member would like to tell us whether he read the proposals and projections by Solarex and if so whether he considers them viable?

HON W T SCOTT:

Well, Mr Speaker, I do not want to take up a political point with the Hon Member on my left. I am asked to consider these proposals viable in the same context that I can consider Solarex viable. The Government, at least, after they had received the reports from Appledore went to Belch, Coopers and Lybrand and after that went to Casey but did they undertake the same exercise with Solarex?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker.

HON W T SCOTT:

Well, I am glad to hear that from the Hon Financial and Development Secretary because that is the first we hear of it. Where at least we have had the consultant's reports on the Dockyard,

at least on a confidential basis, we have not had that and this is the first time we have heard that they have been investigated. There has been no, certainly as far as I am aware, no cost element in the Supplementary Estimates to pay for a consultant's report, the same as we had with the Dockyard, of £20,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I may intervene, with respect to the Hon Member. This was looked at as part of the on-going study of the Dockyard and the work which was undertaken by Coopers and Lybrand on this. It was paid for from the funds which they are receiving from ODA for the Dockyard study. The results and their comments were sent to the local firm representing Solarex.

HON W T SCOTT:

Well, the only thing, Mr Speaker, and the last, infact, on that is that we do not consider these proposals viable and I think that at the beginning Government perhaps might have had its own reasons why perhaps it did not find them viable. Otherwise they would not have solicited the opinion of consultants. Mr Speaker, continuing with land, Government's record on its initiative regarding the East side reclamation is a very good one - I think that I complimented the Minister on that when he first announced it in this House - and Members are aware of the interest that I have shown in this by the number of questions I pose in this House and other Members of my party. However, I have always warned Government, and increasingly so of late, that this is a project, Mr Speaker, that in its finality could be greater even than the Dockyard. It could provide an economic base, a financial structure, a job opportunities scheme far greater than the Dockyard, naval or commercial. I had purposely not asked the Minister for Economic Development and Trade when we had the last questions session in the House in order not to interfere with what perhaps could be termed as the confidential nature of the possible negotiations. Yet, I have warned him, Mr Speaker, and I think he took the point that in an investment - and we are talking about quite a few hundred of millions of pounds investment at the end - of that nature you have people that are interested, they are not going to wait forever. They have the money available, they are not going to wait forever. They are going to go somewhere else.

HON A J CANEPA:

If the Hon Member will give way and I am grateful for that. It is true that he has not raised the matter of late and therefore I think I owe him some explanation as to what the state of affairs is currently. I think he will recall that I gave an indication that since it is such a huge project and since there was very little between them, certainly not enough on which we could decide between one and the other, I asked the two parties to get together to see whether they could jointly undertake the development. Arranging meetings between the two parties has been an extremely difficult and frustrating process. The position was, two or three weeks ago, that a meeting was held in

London. It was not very satisfactory but progress is not being made, not so much because they are not making progress in discussing the details but because not enough meetings are being held to give them opportunity to actively get together. I think the stage is being reached when next month I shall really have to call in the legal representatives of the two firms in question and, as it were, knock their heads together. Either they make a move jointly or, if one or the other is responsible for the lack of progress because they are not willing to get together, the Government, I think, may have a new situation and, if only by default, we may be in a position in which we have to make an offer to one of them. That is the position at the moment. Therefore what I am indicating really, and I hope he will accept it as a sincere statement, I honestly do not think that any fault lies with the Government, so far, as regards the delay.

HON W T SCOTT:

I am grateful for that intervention, Mr Speaker, but it is not a question of apportioning fault or blame. It is a question of Government, having taken the initiative, it should ensure that that initiative is carried through in all of its stages and that decisions are taken by the Government as and when they are necessary.

HON A J CANEPA:

I take the point, Mr Speaker, I just hope that, if a decision were to be taken, the Opposition, particularly the Hon Mr Willie Scott will view the decision in that light.

HON W T SCOTT:

Well, that is our prerogative, Mr Speaker, if and when the time comes. However, I am grateful for the Hon Member's intervention. Mr Speaker, there is something that I certainly would require some further clarification on because it does not seem clear to me and I will try hard not to reveal what is contained within these reports when I say what I have to say. It is something that appears very ambiguous to me, something that the Hon and Learned Leader of the Opposition raised in an intervention at the end of the Hon and Learned Chief Minister's introductory speech to his motion. That was the £11m which is now £14m. As we understood it, Mr Speaker, certainly as far as I understood it - the Hon Joe Bossano said it quite clearly as well that it was not like that - it was that the £11m was part of the £28m, the £28m being composed of £17m and £11m. This is contained, in fact, within this report. "The total funding required from ODA will be approximately £28m".

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On a point of clarification, Sir, that is from ODA. The £11m is the funding from the Ministry of Defence that is possibly where the Hon Member may have been misled by the report.

HON W T SCOTT:

I still have to find the £11m, Mr Speaker.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think that the Hon Member will find it in the balance sheet figures at the back of the report where it indicates the amount of work but it is very difficult to say in the House why the actual £11m was not put there. There is presentational reason and I will talk to the Hon Member outside the House if I may, I am sorry, Mr Speaker.

HON W T SCOTT:

Mr Speaker, I am grateful and I obviously will accept that offer. Mr Speaker, it has been said many times in this House by the Government that the deal could not have been made any better if there had been consultations and the tripartite approach to the British Government and the British Parliament over a period of time had been made. What we say is why could not the deal have been better with an all party involvement? If Government have achieved what they say is an acceptable deal with one year's deferment after being in, used unreservedly, secret negotiations during something like twelve to sixteen months, why cannot they, the Government, accept that by the same token a united approach could have achieved a better deal? Mr Speaker, there is an aspect of that deal that has not been mentioned before and I wonder, in fact, whether any regard has been taken of it. In the absence of any comment, I must assume that it has been forgotten about completely although I hope I am going to be corrected. Does the package, for example, contain financial aid to companies who, because of the operation of a commercial yard, of a new commercial yard, and having been for very many years in the shipping and yacht repair business, will find that they now cannot compete with an admittedly subsidised yard and will have to cease operation? If there is any compensation to be made for the loss of business of those enterprises, the loss of businesses or perhaps even total liquidation of those enterprises, is there any compensation that is going to be paid to those enterprises and if so who by? Where is the money going to emanate from? I think, Mr Speaker, there is one obvious one in particular that I am talking about. I think that after having done a great service to shipping generally, and Gibraltar in particular, over quite a number of years it will have either to contain itself to a very small operation indeed or close altogether. That is the Bland Ship Repair Yard and foundry on the other side of the airport. I think it would be less than fair to expect businesses of that nature, which will obviously see a very detrimental effect to them of a new commercial yard, going out of business without compensation. There are other enterprises not as large as that which do not employ so many people but, of course, the principle is still the same. I wonder, Mr Speaker, what guarantees there are that the new commercial operator, if the business envisaged by them does not materialise and that their workforce is not completely occupied, would not enter into activities which, traditionally, have been undertaken by a number of small, medium or larger companies that have had absolutely nothing

to do with dockyard, naval or commercial work. For example, in the construction industry, in computer services, offering computer services - because we have all heard how Appledore has this marvellous computer that they are going to install in Gibraltar - in welding and other mechanical and electrical services and the preparation of drawings. Will this put more jobs outside of the Dockyard walls at risk, Mr Speaker? There has been no comment at all from Government on this. Mr Speaker, we understand that the commercial operator will be introducing parity, only for the first twelve months. After that it will be on a, presumably, productivity basis, how they work and so forth. It raises a question, Mr Speaker, because Government is a very large employer and indirectly it will also be the employer of the Gibraltar Shiprepair Company Limited. Although it is a private company the shareholding will be by Government and there will be Government appointed people and, perhaps, even civil servants on that board. Perhaps Government is in a position to say no. We cannot be in that position because we do not know. Mr Speaker, what is Government's policy with regard to the continuation of its present parity policy in public sector employment. Are we to expect, for example, a virtual freeze on job creation and opportunities in the public sector to oblige workers to take up employment in the commercial yard? Well, that has not been mentioned before. I think it is a very important one. Is Government also hopefully going to look to see how the negotiations at an individual level are taking place with prospective employees of the company with a four years "no industrial action" agreement and see how they can perhaps use it. A word of warning to my friend on my left, on that basis. Mr Speaker, we have had a number of documents, not all made available to us over the last few months. One in particular, I think it is called Casey's has been mentioned here yesterday. The Hon and Gallant Major Peliza explained how, in conscience, he could not read that document. Well, Mr Speaker, there are two of us on this side of the House that feel exactly as he does and I am one of them. The case could be made, perhaps, for a document paid by taxpayers outside of Gibraltar, finding itself in our hands and the people of Gibraltar not being made privy to it. However, when the report is paid by the taxpayers of Gibraltar, on an issue as important as the Dockyard, I think, Mr Speaker, there is a morality about the whole issue and a very strong one at that. It is a very strong point of principle. I am sure that moral point has not been lost on the Government, Mr Speaker. I can only draw one conclusion from the Government's decision not to make it public, in fact, not even to give us a copy like this to take home or to our offices to study. We cannot even do that. We have got to go down to the Secretariat, confirm to them that we will not disclose it, read it and then go home like good little boys. Mr Speaker, I suspect, therefore, that if Government has chosen to withhold this report from the public - and that is the only conclusion I can come to - and attempt to tie our hands, which they have done - and remember I have not read that report - its recommendations cannot be other than obviously a highly politically damaging one. They must be in conflict with the decisions taken by Government in arriving at the agreement of the package deal. They must be, I can draw no other conclusion. There have been no reasons stated as to why this confidentiality. I feel, Mr Speaker, that that being the only conclusion that I can come to, and I think I am not altogether wrong in that, the Government must view it as a very great contributor, should it be made

public, towards a decrease in the votes in favour of the AACR at the next general elections which hopefully will take place soon.

MR SPEAKER:

Are there any other contributors?

HON MAJOR R J PELIZA:

Well, Mr Speaker, if no one has anything further to say I think I will have the last say for our party in Opposition. I have, as you know, Mr Speaker, spoken on the two previous amendments.

MR SPEAKER:

With respect to you, you have spoken on two amendments. You have spoken on Mr Isola's amendment extensively and therefore I will remind you, as I warned you then, that you have had over an hour on that one and I will not allow any repetition.

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I will just start with the statement of the Chief Minister to which I hardly referred yesterday. I won't take very long, except to say that as he was reading, he said: "As this House knows, we have been engaged in the most intensive consultations with the British Government for the past few weeks". I thought he was going to carry on: ... and we have had none with the Members on the other side of this House as I promised I would do". That, in fact, Mr Speaker, is the truth. He may have had a lot of consultations with the Government but he has had none at all with the Opposition notwithstanding, Mr Speaker, he has been giving the impression all the time that he would do. The last consultations we have, as he calls it, is when he brings the motion to this House and he expects a debate in the House to represent consultations. Amazingly, Mr Speaker, in the same statement, in paragraph 15, he goes to say: "... if any of us on either side of the House or in any sector of public life in Gibraltar were to place party, political or any other interest above the good of Gibraltar as a community for which we have fought so hard and so long". Mr Speaker, how can he possibly talk about unity when right from the beginning of this tremendous issue for Gibraltar he has been promising consultation and he does not do so? He has certainly done his very best to divide Gibraltar on this issue and now he calls for unity. Furthermore, Mr Speaker, on an issue which I thought was very important, that is to say, to pave the way to convince the Government of the need for giving a very hard look at what they were doing and so prepare the ground by getting support in both Houses of Parliament and in England generally, we see, Mr Speaker, correspondence with the Leader of the Opposition which proves again that he was taking the Opposition up the garden path deliberately, it cannot be otherwise. In his letter of the 10th June, 1983, Mr Speaker, he says: "After discussion we agreed that action on a possible campaign should be deferred and that further thought should be given by all concerned to the steps that might be taken. I continue to hold the view

that the question of a campaign should be deferred until we have come to a conclusion on the commercialisation proposals. We are now quite close to reaching that position". In paragraph 6 of that same letter he said: "Our agreeing in principle that an all party delegation from Gibraltar should make early contact with the British/Gibraltar Group, as in the case of the possible letter-writing campaign, I think it is important to get the timing right and I should like to discuss these two matters with you as events develop over the next two or three weeks". The letter is dated the 10th June. It has got no reference but it is addressed to the Leader of the Opposition. Then there is another one, Mr Speaker, on the 22nd June, 1983. The last paragraph reads: "My visit to London will not now be for the purpose originally intended and I will be in a better position after it, to consider the question about the meeting of all parties mentioned in your letter". The 27th June, Mr Speaker, again the last paragraph: "Subsequently, having regard to certain developments, I thought that the Government in the exercise of its responsibility have a duty to carry out certain functions in London within our competence, before the visit to which I referred took place. Hence the decision to take the first meeting as the opportunity for this purpose. The question of the joint visit is therefore still pending". These arrangements were written down. Why did he act in that manner? Why did he say one thing and do the very opposite, Mr Speaker? Was he trying to mislead the Opposition? Is that the way of bringing about the unity that he is asking for now? Does he expect the Opposition to carry the baby for him now? Mr Speaker, it is an unformed baby unfortunately and whilst we cannot take responsibility for it, if there is an election and, of course, we are elected, we will do our best as you might say, to clear the mess and indeed it is a hell of a mess. Yes, Mr Speaker, perhaps I can do a few things from London and I have done a lot from London. I have approached a lot of Members of Parliament and thanks to that, perhaps, the opposition that Mr Zammit says exists today is even greater, because the Government have failed to carry out the public relations exercise that was necessary to inform the Members of Parliament and the British public of the real situation of Gibraltar. I will deal with that a little later. Of course, let me say, Mr Speaker, that when I am required I am here, when, perhaps, Members of the Government are not. For instance, Mr Speaker

MR SPEAKER:

Order, order, I will not have Members diverging and going off at a tangent because a remark has been made. You are speaking to the Chair and you should address yourself to the point at issue. I say this after you have had your say but let us not prolong this.

HON MAJOR R J PELIZA:

The point is that I have been attacked, Mr Speaker, by an aside and I think I have every right to defend my position. That is to say Mr Speaker, that I have been here for this purpose since the 4th July and I was prepared to stay here for as long as necessary and that has not been the case of Members of the Government.

MR SPEAKER:

No, I will not have this any longer. Will you please go on. Order, will you go on with your contribution.

HON MAJOR R J PELIZA:

I have been provoked, Mr Speaker, and I have got to defend myself. I would not have acted that way otherwise. Well, Mr Speaker, I will try now and follow the debate in answering some of the points raised by Members of the Government. I would like to deal first of all, Mr Speaker, with Mr Featherstone who usually goes back to the times of King Canute that is the fable he usually quotes. I do not know what the relationship is or if he has got anything to do with it but he always seems to produce a book. Then also, I think it is that he is historical because he usually goes back to the times when I was Chief Minister which was far back in 1969. So, just to try and prove that the Government was doing right by keeping secret all the hundreds of reports that they have had, and I think it probably goes into hundreds, he produces one, the Beeching Report. It is not the first time he has done it. He has done it before and of course he will do it again because that is, apparently, the only defence that they have. Why didn't you make public the Beeching Report? I had nothing to do with the Beeching Report, Mr Speaker. It was the Governor's Report and I had nothing to do with it. I did not ask Mr Beeching to come here, that was done by the British Government for the sake of finding out how they could improve productivity, I suppose, in the Dockyard. I had a chance of speaking to him and I did learn a lot from what he said: This is one of the reasons why I was so keen on productivity, which took so long for the Government to realise and, of course, on which they have achieved nothing to this date. Mr Speaker, I think I would suggest that he comes down to live in the 20th century and forget about Canute. Mr Speaker, I can see how gullible he is too. He referred, Mr Speaker to the achievement in Singapore. I was looking through some paper not so long ago, which my Hon Friend here drew attention to, on Singapore and I noticed that this - I think it was to do with the Consultative Economic Committee of the Governor - was one of the papers that was thrown in. It was excellent to toy with the idea of commercialisation, it couldn't have been better thought: 'Look at the achievement in Singapore, you can do the same in Gibraltar'. Mr Speaker, he swallowed it, obviously, hook, line and sinker and he thinks that the situation in Singapore is exactly the same as Gibraltar. Singapore, to start with is not subject to a blockade, we are. I would say that we would have a very good chance of commercialisation if the situation of Gibraltar was not what it was but not even to the extent that the Government think. I believe that we have tremendous assets in that Dockyard which must be worth hundreds of millions of pounds and which obviously we do not want to throw away. What I am saying, Mr Speaker, is that you cannot place the whole future of Gibraltar on a basis of commercialisation which is going to replace the income that is today coming from the Dockyard. That is totally absurd. Even the Financial and Development Secretary probably agrees with me on that one. At least, he did when he made his speech at the time of the budget because it is just not common sense. Here we have, Mr Speaker, Mr Featherstone, the Minister for Public Works, saying what a

wonderful thing Singapore did and we could do the same thing here. I suggest to him that before he thinks about Gibraltar, he had better start doing something in his own department which needs a lot of looking at. I would draw his attention to Cascmates and...

MR SPEAKER:

No you won't.

HON MAJOR R J PELIZA:

The point has been made. I wish I could convince Mr Featherstone, he has been convinced before on the question of divorce, Mr Speaker, So I think he has got an open mind. Therefore if he has an open mind I might still convince him that he might vote against the Government today. I am very optimistic, Mr Speaker, and sometimes it works. His battle cry, I think, was: 'We accept commercialisation, we will rise to the occasion'. Great words, Mr Speaker, almost Churchillian, but I say to him that commercialisation is Gibraltar's Achilles heel now and I say to him that Spain is going to aim its arrow at that heel almost immediately and I say to him that this is already happening because I am going to quote, Mr Speaker, from a newspaper which is already saying so.

MR SPEAKER:

No, it has been quoted from already. We are not going to have a repetition.

HON MAJOR R J PELIZA:

Then, Mr Speaker, I will just give him the date in case he has missed it. It is the Daily Telegraph of the 21st July and if it was all quoted then there is no need for me to quote it. If he refers back to that, Mr Speaker, he will see then that on the other side of the Bay a commercial repair yard is already on its way and also he might have noticed that in that article a report says how ships are being attracted away already to Ceuta and Algeciras from our course. I was surprised, Mr Speaker, the other day when I asked the Minister for Port for statistics on what was happening in Ceuta and Melilla. How much of our shipping was going that way. I have now found it. I am surprised, in fact, that the Government does not keep track of things like that because if we are interested in rising up to the occasion, one of the things we must have is information on our competitors about which we do not seem to care very much. I asked a question the other day to the Minister for Port and he just did not know. I have been able to find it and I will say what the position is with regard to Ceuta and Melilla. In 1978 the number of ships coming to Gibraltar was 1,692. The total tonnage was 17,704,149 and in Ceuta the number of ships was 9,639 and the tonnage was 23,396,000. I won't go all the way down but I think I would like to quote 1981 which shows how the tonnage in Ceuta has increased considerably and ours has stayed more or less the same. These are: in 1981 there were 1,533 ships, a few less than in 1978, and the tonnage was

17,347,000 which is again a few thousand less than in 1978 and in Ceuta it was 9,468 ships and the tonnage rose very considerably from 23,000,000 to 31,327,641. That is the position, Mr Speaker. I could not find the figures for Algeciras.

HON H J ZAMMITT:

If the Hon Member would give way. I think the Hon Member is absolutely right in quoting the figures of 1981 and 1982. I think he will find, in reading the figures of late 1982/1983, that Ceuta has been able to offer ships free water which . . .

MR SPEAKER:

No, order, we are not going to get involved in the reasons why more ships are going to Ceuta. The Hon Major Peliza has been quoting just general figures for the purpose of his argument. We are not going to get involved. With respect, we are not going to get involved. We cannot get involved.

HON MAJOR R J PELIZA:

Mr Speaker, I think that he is just supporting my argument.

MR SPEAKER:

I will allow you to go a little further than this exclusively for the purposes of giving comparative figures and nothing else.

HON MAJOR R J PELIZA:

Mr Speaker, what I am arguing is that here we are going to open a commercial repair yard which is going to be the subject to interference by inducement, competition, fair or foul competition by all means, and it is true, I think, quite rightly so that they are now giving them free water.

HON H J ZAMMITT:

No, Mr Speaker, with respect, Sir, I may have given the wrong impression. I beg your indulgence. I am saying they used to give free water, they are no longer in a position to give free water and ships are coming to Gibraltar because they do not mind paying for water, for something they need and do not mind paying for.

HON MAJOR R J PELIZA:

Well, I am glad to hear that, it means that there will probably be a few more distillers and I would suggest to them to put . . .

MR SPEAKER:

No, with due respect.

HON MAJOR R J PELIZA:

Alright, Mr Speaker, it is a good thing. If we can compete I am all for it but I have my doubts and all I say is, on the figures that I have available that the picture is not a good one for us. If we see the position with regard to shipping both in Ceuta and Algeciras and we realise that on a straightforward thing such as just coming in for bunkering or whatever it is that they do, we are losing ground

MR SPEAKER:

With respect, we have been labouring a point which has been made by every single Member who has spoken and that is repetition.

HON MAJOR R J PELIZA:

I am just trying to answer the point. So Mr Speaker, I think that Mr Featherstone when he again referred to the report on which nothing is known said that, according to the report, the order book would be ready in three or four years. What I understand from that report which I have not read is that it would not be in three or four years but that it would go into five, six, seven and even eight years. If that is the case, Mr Speaker, the picture is an entirely different one. I think that the point should be made, therefore, of the importance of releasing that report so that we know on what judgement the Government has decided to go commercial. With regard to Mr Canepa, Mr Speaker, I always think that he is very clear in the expositions of his argument and usually, Mr Speaker, very logical. I have tremendous respect for that but, if I may say, yesterday he gave me the impression that he was reading a school essay. He is much better when he does not have to use copious notes but I think that the reason why he sounded that way was because he did not have the freedom of argument that he would normally have if he was dealing with an issue on which he was convinced was the right one. I do not believe that he is. All he said was: "Well, this is bad enough but what is the alternative of the Opposition?". I will tell him what the alternative of the Opposition has always been and indeed not just of the Opposition but of all of those who signed the memorandum that was sent to Lord Carrington. Signatures here include people, not only all the politicians, Mr Speaker, who are in this House but the Gibraltar Trades Council, all the parties, the Gibraltar Youth Association, the Gibraltar Chamber of Commerce, the Gibraltar Women's Association, the European Movement, the European Union of Students. There was unity for you, Mr Speaker, and it is this unity that this Government has broken themselves because if we had adhered to this position which we adopted then, which was on the 17th March, 1982, this unity would have been preserved to this day and Gibraltar would have an alternative which is not just the Opposition's but of the whole of Gibraltar. I am going to read, Mr Speaker, the paragraph so that

MR SPEAKER:

You have read it, with due respect.

HON MAJOR R J PELIZA:

If I have read it, Mr Speaker, I would suggest that they refer to it. It is paragraph 8, Mr Speaker, of Lord Carrington's memorandum. So, if I have read it, I do not want to labour the point. Mr Speaker, I do not want to go all over it again but if Mr Canepa thinks that there are people in the House who think the offer was very generous I will just repeat again that it is because they are not informed. They just do not know what the whole thing is about.

MR SPEAKER:

You mean people in Gibraltar, not in the House. Do you mean people in the House or people in Gibraltar?

HON MAJOR R J PELIZA:

People in the House, Mr Speaker, in the House of Commons. In fact, Mr Speaker, I would like to read from another paper which I do not think has been read and that is yesterday's Guardian. It is the editorial, and I would like to refer, Mr Speaker, to only the first two paragraphs because the others are to do with other things. These two paragraphs are directly connected with the Dockyard and also with the question of how much money we are getting. It says: "Yesterday's Government announcement of the final arrangement for winding up Naval Dockyard facilities at Gibraltar raises the whole complex of disturbing issues which do not appear to have been fought through in London. We shall limit ourselves to mentioning five of them". I will not mention all five because two of them have nothing to do with it. The editorial continues: "The £28m conscience money to compensate for the loss of at least 1,000 jobs will come from the overseas aid budget. As Britain devotes just 1.38% of GNP (compared with the United Nations target of 0.7%) to what is meant to be aid to world poor, this seems to be a double shabby expedient. It is the Defence Ministry that will save £10m a year on the deal and it is their bloated budget that should have been cut. The pious hope that the Dockyard facilities will be able to survive on a commercial basis already undermined by a world slump in shipping may have been extinguished altogether by the Spanish decision to press ahead with the development of the neighbouring port of Algeciras. Then, there is the NATO angle to consider. Gibraltar offered the Alliance the only specialist naval repair facility in the western Mediterranean, particularly important for nuclear submarines. A port reduced to scraping a living from passing trade, mercantile and naval, cannot be expected to set aside extensive facilities for unpredictable emergencies, as the US Navy was among the first to appreciate", that, Mr Speaker, is the Guardian.

MR SPEAKER:

I must make a remark on quotations from newspapers. I am afraid that the opinions of newspapers are not a matter which should be taken into consideration in the House of Assembly. It can be used as an argument for the purposes of furthering contributions. I say this after we have had quotations from about six different newspapers and I must not allow that to happen indiscriminately. I have said this after you have made your contribution.

HON MAJOR R J PELIZA:

I was trying to make a point, Mr Speaker, of the importance to keep the media, the Members of Parliament, the public at large in England informed of what the true situation of Gibraltar is. Otherwise, Mr Speaker, we get that sort of thing happening and people might just not know the true position of Gibraltar. Mr Speaker, I think that, if anything, the Government, because it was unable to adhere to the policy that was agreed upon by all parties, finished up by going to Britain almost considering that they have lost the battle. This is why, in my view, Mr Speaker, when they came to the crunch of the matter, when they had to decide, good old Shakespeare's position, to be or not to be, I think they decided not to be. This is the position, Mr Speaker, that Gibraltar finds itself in now. We find that they felt that they had either to get commercialisation or be doomed. As far, and this is why again I will stress the importance of letting people know, as the public in England and Members of Parliament are concerned, we are getting a good deal. They did not know that commercialisation, as any reasonable person making an assessment of the situation knows, is not a replacement of the Dockyard although we all know that. They do not know that the other alternative was budgetary aid. That, apparently, was the situation and not what we asked for in the memorandum. That, Mr Speaker, is a terrible situation because to me it is virtual economic disengagement of Britain from Gibraltar. The full commitment of economic support to Gibraltar has dwindled considerably by their pulling out of the Dockyard and then passing the whole responsibility to the Government of Gibraltar. This is what is happening, Mr Speaker, and we have got to realise it. It is not just the jobs of the people in the Dockyard. We hear from the Minister who is also responsible for Labour - he has not spoken yet but I think we have heard something already - how we are going to try and adjust the situation. I do not think they realise that if we do not get the income from outside that we used to get from the Dockyard there will be less money within our economic area to be able to carry on supporting the kind of wages that we pay in our Government. Yesterday, Mr Speaker, and I will not quote, I read in the Chronicle how civil servants in Holland are going to have to reduce their income by 20%. Do we honestly believe that we shall be able to carry on with having parity inside the Government when we do not have parity in the Dockyard? If that is so, it is really a daydream and therefore all the civil servants, those who work for GEC, the Police, everybody in Gibraltar must realise that unless the workforce in the Dockyard earns the money that they used to earn before, all their wages are going to start going down and all the social services are going to suffer. Let there be no question about that. I do not think that this has got

home yet. The penny has not dropped, Mr Speaker, but the sooner it does, the better because then they will realise what we are talking about in this House. They will realise why we have said it was necessary to go united and what terrible blunder the Government has made by breaking that unity that was so well held together at the beginning of this situation. Mr Canepa said: "We have reached the crossroads". Indeed we have. We have reached the crossroads and God knows the way that the new road is going to take us. It is very, very difficult for us in the state that we are in, Mr Speaker, to believe that with the package that we have got, with a few more little bits of land on the sea front and a little bit of land at Rosia Bay the future is now shining for Gibraltar. I would ask the Minister for Development what progress has been made recently on development here. Why, when we get this land, is the situation going to be totally different? Why? I understand, Mr Speaker, in fact, that there is a company, Wimpy, who wants to develop Cornwall's Parade and who wants to develop the eastern side of the Rock but they are getting no joy from the Minister's Department. I do not know if that is true.

HON A J CANEPA:

Mr Speaker, it is shattering to hear a thing like this here in the House because I have not the slightest indication that Wimpy have had an interest in the Command Education Centre. To me it is extraordinary how, if up until the 14th July I was available during normal office hours, people are unable to approach me. This is incredible that someone would go to the Surveyor and Planning Secretary's Department, not get any joy out of that department and not come and tell me. Mr Speaker, I am sure that it is not the experience which other Hon Members in this House who know anything about development have. It cannot be.

HON MAJOR R J PELIZA:

Mr Speaker, all I will say is that I will try and get back to the person who said that to me and tell him to approach the Minister.

MR SPEAKER:

In fairness, and I must say this again, in fairness to the House, if allegations and accusations are going to be made they should be made in the full knowledge that they can be substantiated and that is the principle on which allegations are made in this House.

HON A J CANEPA:

Mr Speaker, if I may, I think that communications is the essence of things in life, Mr Speaker. I would invite the Hon Member, if he ever gets any inkling of that and since he writes so many letters to Members of Parliament to write me a letter and I will deal with the matter immediately. I assure him that he would be doing Gibraltar a service if he does that.

HON MAJOR R J PELIZA:

I take the offer, Mr Speaker.

MR SPEAKER:

We will leave matters there now.

HON MAJOR R J PELIZA:

Yes, Mr Speaker. Mr Speaker, I say that the best way of making development here progress rapidly is to ensure that those who have already developed, those who have already put the money in in our area, particularly hotels, and I do not see anyone building more hotels, are able to pay their bills. I believe that those

MR SPEAKER:

No, with due respect, you can talk about development as an alternative to the Dockyard but not how development is going to progress.

HON MAJOR R J PELIZA:

Well, tourism was brought in, Mr Speaker, if I may say so, in the statement of the Chief Minister as a thing of the future and therefore I have got to refer to it.

MR SPEAKER:

You can refer to development as one of the alternatives to the Dockyard but not how development is going to progress and how it is going to be implemented.

HON MAJOR R J PELIZA:

Mr Speaker, but I cannot see how one can talk about development without saying how it is going to happen.

MR SPEAKER:

As a general statement you are entitled to do that.

HON MAJOR R J PELIZA:

This is what I am trying to find out because I do not see, Mr Speaker, honestly, how you can expect anyone to build another hotel in Gibraltar if those who are there now are on the verge of closing down? It is again kidding ourselves if we believe that that is going to happen because it is not going to happen. Therefore, even if we have the land, Mr Speaker, that we start

putting our house in order. With this, Mr Speaker, I come to the Minister for Tourism who unfortunately is not here at this very moment but he is probably listening from outside. He said that I, in the past, have said - a very memorable phrase apparently, they seem to remember what I say, which is good - that you must not bite the hand that feeds you. Yes, Mr Speaker, I still stand by that. In the context that I made it was that we should not quarrel with the people representing Her Majesty's Government in Gibraltar and I still say that. We owe everything that we are to the fact that Britain is here but that does not mean to say that this means servility in any manner or form, any more than it is, Mr Speaker. The fact that I am now quarrelling with the Government here does not mean to say that I am less Gibraltarian, of course not. If I quarrel with the British Government, it does not mean that I am going to be less British, because I am not. I am going to remain British, whatever happens in Gibraltar because I think we are going to muddle through. I do not believe that we are going to be extinguished either by the Spaniards or by the closure of the Dockyard or whatever may happen here. We are going to get through, the point is how are we going to get through? That is the point that I am trying to make. Mr Speaker, therefore, when I made that remark it had nothing to do with the other. He also said, Mr Speaker, that they do not owe us a living in perpetuity, but we don't want that either. I think the Chief Minister knows perfectly well, better than I, that Gibraltar used to pay its way. We never used to ask for a penny from anybody else. I am sure that he would like to see it that way again and so would I and so would everybody. The only reason that we are in the position that we are today is because Britain did not retaliate. By not retaliating it gave Spain a free hand as to their restrictions. This is why we are in this position. It has nothing to do, if I may remind the Minister now that he has come in, with wanting to be looked after in perpetuity. That is not the point. What happens is that the British Government, and we seem to forget this, rather than retaliate said: "We will support and sustain". I think that we are absolutely entitled to ask for that, otherwise they should have said at the beginning: "Gibraltar is untenable we cannot hold the position and we will disperse". We have got to look at reality in the face. It is happening to Hong Kong today and no one for one moment believes that that situation can be saved. It would be absurd to believe that that situation can be saved but in the best judgement of Her Majesty's Government it was decided in 1969 when the frontier was closed finally that it was possible to hold Gibraltar, not by retaliating but by supporting and sustaining Gibraltar, that pledge still stands. That is the sort of information that the Members of Parliament must get and then I think that they would see the situation as being completely different. Mr Speaker, it is not just a question, as the Minister said, of showing confidence in ourselves. We must show confidence in ourselves but above all we have got to make sure that a bigger power which is surrounding us and which can obviously strangle us if they want to, there is no question about it, does not get away with it. As far as we are concerned, I would draw the attention to the Minister that he should try very hard to get that tourism right because he has failed totally up to now. It is not because we have not been prodding him to get things done. Mr Speaker, I see very little prospect of any change in tourism for as long as that Minister is there because if he has not been able to do it in the last four years, or was it eight years or so, I doubt whether he has capacity there to be able to change.

MR SPEAKER:

No, we are not going to turn this into a vote of confidence on the Minister for Tourism.

HON MAJOR R J PELIZA:

I am finishing. Lastly, Mr Speaker, I would like to refer to my Hon Friend Mr Haynes who is not here and who I thought made an excellent contribution yesterday. I think I would like to finish up with what he said. He said that the Government had brought no argument to this House to prove that what they were trying to sell to Gibraltar was valid, they have not. They have not produced what figures, they have not produced facts, they have produced nothing. All they have produced is a lot of secret reports which they will not allow to be given out to the public and which immediately become very suspect because, if those reports were as good as they obviously think they are, then, Mr Speaker, this debate would not have taken place. We would all be singing and dancing in the streets of Gibraltar as to the wonderful future we were going to have with commercialisation.

HON DR R G VALARINO:

Mr Speaker, Sir, I rise to speak on the motion moved by the Hon the Chief Minister. Let us first consider the facts: (1) HMG has made a firm decision to close the Naval Dockyard, no matter what ideas the Hon Mr Gerald Restano has on this subject; (2) Closure of the Naval Dockyard with no replacement activity would lead to a collapse of the economy with in an extremely short time, probably not more than a year, unemployment would rise to unprecedented heights and the consolidated fund balance would suffer greatly as a direct result of the closure.

HON J BOSSANO:

If the Hon Member will give way. If that were to happen the British Government would be breaking its word given in the White Paper of June, 1981. Does he think that the British Government, in which this administration has so much faith, is capable of that? I do but does the Hon Member share my view?

HON DR R G VALARINO:

Mr Speaker, I do not particularly share the Member's view but the fact remains that if there is a closure of the Dockyard and there is no replacement activity, unemployment would increase and that is as simple as two and two makes four.

HON J BOSSANO:

Mr Speaker, that can only happen if the British Government is prepared to break the commitment it gave in the White Paper of June, 1981, Command 8288. I have been saying that the British

Government is quite capable of this, particularly Mrs Thatcher's Government, because they are always behaving like that. Does the Hon Member share my view?

HON DR R G VALARINO:

Mr Speaker, I repeat the obvious thing and I am afraid that, at this early stage in my speech, I am not prepared to give way any more to the Hon Member. But as I said, two and two makes four remains. I will now go on to the third point. (3) The economy is already weak from the continuing haemorrhage caused by a partially open frontier and an acute shortage of land available and suitable for development purposes with tourism in mind. The picture is bleak and the only solution possible is a diversification of the economy so as not to rely on the long-standing Dockyard economy. The only way to continue to support our economy given HMG's firm and final decision to close the Naval Dockyard, is by commercialisation together with the development of those prime areas offered to us by Her Majesty's Government. It is only with a stable economy that the Gibraltar Government will be able to borrow funds for its other needs, principally housing. Commercialisation offers a potential major source of employment and income. I have no doubt of the long term viability of the project and consultants agree that this will be the case. As mentioned by my Hon Colleague, Mr Canepa, who covered the subject comprehensively, this represents a desirable change from an artificial economy to a natural economy. However, the future of a commercial ship repair yard does not solely rely on the availability of work, the initial years of which will be supported by help from HMG. Here is an opportunity to accept a challenge and to achieve success. Gibraltar cannot lose this opportunity of establishing a new "dockyard" facility which could form the basis for a diversified economy. In fact, in answer to a point raised by the Hon Major Peliza, it is my opinion that Her Majesty's Government, having invested capital in the Dockyard project with a view to developing the Gibraltar economy and provided that the ship repair company has done all in its power, both management and the workforce, to ensure success of the venture, it is unlikely that Her Majesty's Government would stand by and allow the venture to fail because of future depressions in the industry or because of a deliberate attempt by our neighbours to sabotage the development of the facility by unfair subsidised competition. Here, let me put the record straight. The facilities offered nearby in Spain, and I believe mentioned by the Hon Mr Gerald Restano, have to do with ship building and not ship repairing. The Opposition feel aggrieved and frustrated that, in their opinion, no "consultation" with them has taken place and with the aid of the Gibraltar lobby they claim they would have been able to obtain a better package. This is totally without any foundation and let me point out that the present large conservative majority in the House of Commons has practically rendered the Gibraltar lobby impotent. The best package has been obtained from Her Majesty's Government and Gibraltar must be thankful to the officials who were closely involved in the negotiations with HMG and to Sir Joshua Hassan in particular. With a commercial ship repair yard in operation the additional spin-offs and extra revenue to Government will be large. Let me suggest one area in which I have some knowledge - telecommunications. A modern yard has to have a high degree of

sophistication in their communications system. They need an excellent international telephone network, telex, data, FIBX's and other related telecommunications facilities. They could well need computerisation within the yard. All these can provide added revenue to Government. The motion, as it stands, does not mention lands or the great steps put forward by the Government in respect to this vital aspect of our evolution. The handing over of very valuable land areas and the probable release of other sites have to be considered as part of a package involving also the transfer of Dockyard land and not in isolation. The development of such areas of land forms part of the diversification of our economy and will mean added work for our labour force. Nobody can guarantee that the future will be easy but it is up to us to make sure that Gibraltar remains economically viable, since if Gibraltar is economically viable then it is also politically viable. In the long term, constitutional reform will be necessary. In ending this short speech let me once again say that what HMG has offered has been something which has not been offered to any other concern either in Britain itself or overseas. All praise again must be given to those involved in these difficult negotiations with HMG. Mr Speaker, Sir, I have no hesitation in supporting and welcoming this motion. Thank you, Sir.

HON MAJOR F J DELLIPIANI:

Mr Speaker, Henry VIII said to each of his wives: "I won't keep you long". I have had to make a tactical withdrawal because the lady did not make a U-turn. I think she burnt slightly but the U-turn she did not make and I was convinced that the lady would not make a U-turn when she got such a huge majority of 144 or 147 votes. I think the comparison of the British Nationality Bill and the question of the attempt to stop the closure of the Dockyard cannot be put in the same sphere. They are two totally different aspects under two totally different conditions. In the first place, the United Kingdom Government had a majority of less than 40 before the elections. In the second place, the Nationality Bill did not talk about money and losses of workload to shipyards in Her Majesty's Dockyard.

HON MAJOR R J PELIZA:

Will the Hon Minister give way. If that was the view of the Government why did they keep us going along the garden path right to the very end? They should have said so: "We cannot do it, we are not interested".

HON MAJOR F. J. DELLIPIANI:

Mr Speaker, I have not mentioned the Government at all. I said I have made a tactical withdrawal. I realise that whatever we did, we would not change Mrs Thatcher's mind and to me it is a miracle that we have got a year's extension because she is a tough cookie. Let me say one thing, the question of work practices has been mentioned both in this House of Assembly and in the Commons and in the House of Lords. I am referred to some-

times by my colleagues as the reactionary Major but there is still a bit of socialism left in me and I hold the right to strike by trade unions very dearly because I have been through that. That does not mean that there could not be agreement as to which way to strike. There could be agreement that strikes could be by ballots. It does not mean a blank cheque for the unions but the limitation of the right to strike, in any work practice, is abhorrent to me. I think there is an attraction for me after the little bit of socialism that is still left in me, in that this is called the Gibraltar Ship Repair Yard and it is owned by the Gibraltar Government. There could be, and I do not see why not, as part of the negotiations to create work practices which are conducive to better productivity, an element of worker participation in profits, in the sharing of profits, if the commercial yard is a success. I throw that as a basis for any agreement that can be made between the unions and the management of the ship repair yard.

HON J BOSSANO;

If the Hon Member will give way. I think he is making a very interesting contribution, let me say, in introducing into the debate, quite frankly, an element that has been totally missing up till now. However, I think we come back to the essence, which is that the potential that may or may not emerge if the unions or the workforce decide to get involved in attempting to make a ship repair yard work, is and must be based on the information that is available to us as to what are the chances of its success. Nothing has been said so far in the House, other than that the British Government would not change its mind, to indicate that the chances of success now are any greater than they were in 1982 or in 1981 when it was studied previously. It is no good saying to the unions that they may be able to have an agreement giving the workers a share of all the profits if all the indications are that there are not going to be any profits. Would they share the losses?

HON MAJOR F J DELLIPIANI:

I do not think we will talk about the sharing of profits or sharing of subsidies. I just introduced that element to suggest that it could be part of the negotiations and the little socialism that is still left in me would like that; I mean, we are going to have a nationalised industry. The other point I would like to emphasise is the question of land and, in particular, the one which has been highlighted in the House, the Command Education Centre. The tendering procedure for the Command Education Centre was so rigid and tight, so inflexible, that I knew it would not attract anybody and I hope that the Development and Planning Commission have had a second thought on the matter because it is still a valuable piece of land. However, it did not make commercial sense. I think the Hon Mr Willie Scott mentioned that one of the interested local operators has been left out. From the studies that I have come across, the local operator was left out because their presentation provided even less job opportunities than the Appledore presentation.

HON W T SCOTT:

If the Hon Member will give way. What I mentioned was not the preferred operator. What I mentioned was a developer that would make use of part of the land outside the commercial dockyard element but still using part of the land. Nothing at all to do with the Dockyard; I spelt it out quite clearly, it was the company called Solarex not an other tenderer for the commercial yard.

MR SPEAKER:

I think what the Hon Member has said, insofar as land is concerned, was on the effect of the commercialisation of the Dockyard on existing businesses.

HON MAJOR F J DELLIPIANI:

What I was trying to say, Mr Speaker, is that the land that has become available now is the kind of land which an entrepreneur like the Bland Family would jump at it. It is really a prime piece of land. We have always been wanting the sea and it will become available. Whatever we might decide in this House, the fact remains that if the Dockyard closes and there is nothing else to offer, we will be in far greater trouble than having a commercial ship yard. I think everybody knows that. This is why I made my tactical withdrawal because if I make a stand and we get nothing, what is the use of making a stand? At least we made a stand and we have got something.

HON J BOSSANO:

Will the Hon Member give way? I have got a great deal of respect for the honesty with which he often speaks in the House because I think he does that without really caring whether that is used against him politically or is used to embarrass him or to accuse him of breaking with party policies and I would not attempt to do anything like that. I think that he is speaking honestly but I would ask him whether he does not see that, in fact, by making a tactical withdrawal on the basis that this is better than nothing and not because he has been persuaded that it is going to succeed, he is taking the responsibility for failure upon himself? I think after me, he has been the Member who has most strongly suggested that commercialisation would not succeed. If he has not been persuaded that he was mistaken in his assessment, if he has simply been persuaded that it is either that or nothing, then can he see that now he is taking the responsibility for the events of collapse of commercialisation, whereas if there was nothing now it would be the British Government's responsibility for welching on their promise of June, 1981? He is making himself responsible for something which he should not carry.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I have been persuaded to go along with the package deal because of the package element of it, because of the extended time element. If you look at it, we are going to have a year of

naval dockyard work and three years where we are guaranteed almost 50%. So, the extension is there to see whether we can have that up turn in the shipping repair business. At the moment the shipping repair business is going through a bit of recession but we have a period of between a year and four years where we can see how the ship repair business moves on. The only way we are going to attract other shipping firms to come to Gibraltar is by how successful we are in tackling the RFA refits which will be the basis of our guaranteed workload over a period of three years. However, we have to add the land element to that. I know that I have always been of the opinion that we should have had the land in any case, but we have been having a very difficult time over the past forty years to get it. It has taken this to get it from them but at least we are getting it. I agree with the sentiments of the Hon Mr Bossano because I feel as strongly as he does and so does the Chief Minister. That is the only way we have got it and we have got it and I rejoice at the fact that we have taken this valuable piece of land which has been used by the privileged few in Gibraltar. I have never claimed, and I will never claim, that a commercial Dockyard, however successful it can become, can be the mainstay of the economy of Gibraltar because that type of business is a cyclical business, it is up and down and if it was only that I would oppose this motion. However, I am taking into account the development aspect of the land that is going to be released by the Ministry of Defence. I am persuaded by that. I know that there will be an immediate impact in the industry which is suffering most at the moment which is the building industry. It will have an immediate impact. I will emphasize the Hon Mr Stewart's statement that the British Government will still look at ways and means to help us economically if a commercial Dockyard does not prove the success that we all hope it will be. The Chief Minister, in his speech, mentioned Britain's commitment to Gibraltar had been shown in the package that has been presented to us. I go along with that but I am still worried about one aspect which, in one way, has to do with the economy of Gibraltar and employment in Gibraltar. Firstly, I am not happy with the way the motion on localisation that was brought by the Hon Mr Bossano here, is going. We must continue to fight for localisation and that must be a battle that concerns the whole of Gibraltar because there are still too many jobs for the boys and there is still mistrust of the loyalty of Gibraltarians. That is why there are jobs for the boys. The other aspect that I am not happy at all with, and I generally believe that either it was deliberate or an honest opinion which was totally misleading the statement that was given some time ago by Mr Stanley on the defences of Gibraltar. The defences of Gibraltar are extremely weak, no matter whether the Gibraltar Regiment has been equipped with blowpipes and light guns. There is not one weapon in Gibraltar that does not depend on eyeballs. There is nothing which is radar controlled, nothing which has infra red TV imaging, nothing which has radar tracking, absolutely nothing. Our air defences, our early warning systems are weak and what I say to the British Government is: "If you have not got the manpower to provide the necessary defence that Gibraltar needs, we can provide the manpower if you give us the equipment". There is no doubt in my mind that Gibraltar's defences are extremely weak. I will gauge the barometer of Britain's continued interest in the economy and the defence of Gibraltar by what

she does with her defences. Let us not forget that she has already withdrawn, some time ago, the company that we had at the frontier and she also withdrew the guardship. We have the guardship back but if you see the guardship slipping away and not coming back, start getting worried. In conclusion, Mr Speaker, I support the motion because of the package, because of the land element in it, I would not support the motion if we had only got the commercialisation of the Dockyard. I urge Hon Members to realise, as I realised, that the ultimate success of the Dockyard depends on two things, on the relationship that management and the workforce can establish and on the influence that the operators have in being able to attract shipping to Gibraltar. If they have not got the worldwide agencies to attract shipping to Gibraltar then no matter how well the trade unions behave, no matter what work practices they bring in, if we cannot attract the shipping to come to Gibraltar because of pressures from Spain etc, then we will not succeed. I commend the motion to this House in the spirit that I know and I am convinced that it is the best that we have been able to do.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, at the outset I should make it quite clear that I shall not be voting on this motion as an official. However, I think it would be useful if I spoke on a few facts and points that have been raised and try and clarify on facts. First of all though, I would like to thank the Hon Minister for Economic Development and Trade for the kind words which he said about officials who have been engaged in discussions and quite hard fought negotiations on this issue over the last two years. I think I speak for all of them when I say that we have merely done our job and what we have done we have done for Gibraltar. We require no thanks for that. What have we got over the past two years, since it first seemed likely that the Dockyard was going to close? After numerous studies we have, in fact, got the £28m which Mr Loddo suggested was available two years ago; it wasn't. It was not available until late last year when HMG accepted that, in its view, a commercial Dockyard could be viable. Up to that time there was a danger that we would not get any support for a commercial dockyard from HMG and that we would be pushed into grants in aid. Some people may consider that that would have been a better choice, that is a matter of opinion but all I am saying is . . .

HON J BOSSANO:

Will the Hon Member give way? Is he saying, in fact, that until December last year Her Majesty's Government was not convinced that a commercial dockyard was viable and therefore would not provide the money? Surely, then it must follow that in January of this year, if they had not provided the money - the question of consideration being given to alternative ways of fulfilling the Government's obligation to support the economy of Gibraltar - having investigated the alternative they would have come to the conclusion that there wasn't an alternative and that therefore they could not just say: "Right, we are still closing the Dockyard", without, in fact, having to face the situation where

clearly they were breaking their word in the White Paper. That political consideration, surely, the Hon Member must consider to be an overriding factor in any assessment which is not a question of facts and figures.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

What I am saying, Mr Speaker, is that the danger would have been that HMG would have considered that it was fulfilling its obligation to support, not sustain - the word sustain was not used in the Command White Paper of June, 1981 - to support Gibraltar by granting aid. That is what I am saying and that is the danger. So that there has been rather more progress over the two year period than the Hon Mr Loddo would have suggested. Let us not look at what is downstream but at what is upstream. How are we going to use the one year additional period that we have negotiated? I think that this has got to be used to ensure that on the closure of the Naval Dockyard and the start of the Commercial Dockyard, there must be minimum unemployment and maximum opportunity for the viability of a commercial Dockyard. I think that this year period can be used to that end in re-training schemes and getting the Dockyard ready so that on vesting day we will have a fully equipped commercial yard. As to further consultancies and reviews during that period, I have my doubts. I have had a surfeit of consultancies, as I think we all have over these past two years and I am tempted to equate, with respect, consultants with economists. If you took 100 of them and laid them head to tail they would never reach a conclusion. They always take a view and the views that 100 consultants take can come to 300. I think that I will just step slightly out of my role as an official here but I do so with the agreement of the Hon and Learned Chief Minister. I think that one of the important things that have got to be done, again I say it is a personal view, is that the workforce who are going to be affected by the changes proposed must have a full presentation of commercialisation proposals such as that which was given to the House by Appledore and by the consultants. It should be given by Appledore and by the consultants and the workforce themselves should have an opportunity to examine the proposals, to question them and to quiz the consultants and also Appledore. I think that if the Government can do anything to bridge the arrangements for this meeting and presentation between Appledore, the union and their respective members, this should be done.

HON MAJOR R J PELIZA:

Will the Hon Member give way? Would it also not be fair to give them a presentation of the reports from Casey? I think it is only fair that they should see both sides of the coin.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I said the consultants, Mr Speaker, and consultants includes Casey. The state of the ship repair industry is bad, we all know, but I think there are one or two gleams of light at the end of a very long tunnel. First of all, I think it is interesting that

the Japanese are pumping £11m into a new ship repair facility in Japan. I know the Japanese too well.

HON J BOSSANO:

That is bad news.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it is a different market, Mr Speaker. I know the Japanese well and I am jolly sure they wouldn't be putting £11m if they did not think they were going to make a profit out of it.

HON J BOSSANO:

It is bad news for us, Mr Speaker, that makes our chances even less. If the Japanese are after the British

MR SPEAKER:

Order.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The other is that - I also have been doing a bit of research to see how companies are doing - whilst in Portugal, Lisnave itself, their main yard is in terrible trouble; their loss in 1982 was about 74 million dollars and their yard is now closed with a workforce sit-in which will probably take some three years to sort out, their smaller yard which accounts for about 15% to 20% of turnover has been in profit right through since 1979. On the latest figures that I have managed to get which is for 1981, they made a profit of 5.9 million dollars. Neorior of whom we have heard much, have had three good years: - £0.4m, £5.26m and in 1982, break even. The Gottaverten yard, a big Swedish group, having made losses in 1979 and 1980, have been on break-even in profit in 1981/82. British ship repair at Falmouth who have a force of 1,400 employees and were in a loss-making until until 1979 when they had a major restructuring, have since then made a profit of £0.3m, £1m, £1m and this year, £1.1m.

HON J BOSSANO:

Did the Hon Member say what Mr Casey had to say about Falmouth?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Vospers in Southampton have lost consistently, 1980/82, and this year have made a very small profit. Tyne have been in loss throughout. The Verolme Botlek at Rotterdam have made profits in 1980, 1981 and 1982. The Vlaardingen Oost in Rotterdam have made profits in 1981, 1982. Frederikshaven in Denmark made pro-

fits in 1979, 1980 and 1982. Aalborg Vaerft in Denmark are also in profit. I am not saying that everyone is in profit, I am merely saying that some people do make a profit.

HON MAJOR R J FELIZA:

Will the Hon Member give way? Why then did Mr Lamont the Minister for Industry say that Britain should pull out of ship repair altogether and so does the corporation?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think that it was during the presentation to the House by Appledore that an explanation on the disarray in which British ship repair finds itself, was given. That is that there is a change in the traditional pattern of shipping which no longer goes so much to the northern yards. I think this was the point that was made.

HON J BOSSANO:

Where is Denmark, Mr Speaker, in the South?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We are talking about England.

HON J BOSSANO:

I know, Mr Speaker, but if the Hon Member will give way. He has just told us that Denmark is making profits. The Hon Member asked him whether he can explain why British Ship Builders is pulling out of ship repairing and he says it is because Britain is in the north. Well, I do not know where he thinks Denmark is.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It was a change of shipping patterns from the north of England to other ports which have caused it and this was shown by maps which were presented in the presentation. Mention was made of the additional document which Coopers and Lybrand were preparing and the question was asked whether, in that, there was any reference to Spanish blight and the effect of Spanish blight. We have only just received that document, no additional reference on Spanish blight is made. The document merely sets out how the financial analysis was arrived at and gives examples of working. I think that, on Crinavis which has been mentioned, the article in the Daily Telegraph was to an extent slightly misleading. Crinavis was constructed as a ship building yard to build ships to carry liquid gas. I know this because the Dutch company who built it and who were going to run it at one time, came and discussed with us when we were looking at potential operators. Not that they wanted to operate a ship repair yard here but were

enquiring about the repair of ships that might be constructed there. It is quite true that the Swedish yard which has taken it over is a ship repair company with a very formidable reputation but my understanding is that to convert Crinavis from a ship building yard to a ship repair yard would require very heavy expenditure on changes to their dry docks and their machinery. Government participation in the projects has been touched on. I think that this is a matter which will have to be more fully explored when the Government brings to the House a Bill on the Gibraltar Ship Repair company which we hope will be in October this year. However, I think that one thing that we have to make clear is that at the start of our negotiations with HMG they asked us how much we in Gibraltar were going to put in to the new yard to match HMG's contribution. Our answer was short, sharp and consisted of four letters, I won't tell you what it was. The Spanish competition

HON P J ISOLA:

Can one infer from that that Government has no confidence in the project either?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Speaker, the Government considered that if HMG was going to close the Naval Dockyard they could foot the bill, we were not going to. Spanish blight was not mentioned in many of the consultants reports but, in discussions with the consultants, we have raised this consistently because it is something which has bothered the Government. It has been pointed out to us that if the Spanish Government were to subsidise their yards in order to take work away from Gibraltar, they are also going to take work away from the rest of the countries in the Mediterranean who would be competing for that trade and that this could not be kept up indefinitely. Secondly, that the amount of work which they could steer away from Gibraltar would be limited and not terribly significant in the context of the whole market. This was the view of all the consultants. The Hon Mr Scott asked where he could find the \$11m for the Ministry of Defence programme. It is in fact at table 9(4) of the proposed commercial ship repair operation prepared by Appledore where the figures are shown: - 1984 - \$4m; 1985 - \$4m and 1986 - \$3m. Diversification: - from the very start of this project the officials working on it have been conscious that a cyclical industry such as a commercial yard could not fill the gap in the economy which the closure of the Naval Dockyard will cause. With the Naval Dockyard you have got a steady state of work, of the flow of funds both into Government revenue and for the gross national product. With a commercial yard you are going to have cyclical swings. It is extremely difficult to say when they will arise, how deep the troughs will be or how high the peaks will be. We have been conscious that with so small a tax base and a fragile economy it would be extremely difficult for Gibraltar to cope with the troughs in that cyclical pattern. It is for that reason that we have: (a) sought wider diversification and (b) been insistent that we should get from HMG some form of safety net so that if we run into a very difficult patch, if not through the fault of

management or the workforce but because of a deep recession in this industry, that we could look to them for assistance. We have got that undertaking. I won't repeat it because the Chief Minister has mentioned it and so have other Ministers. On the wider diversification, we have been and are still looking for industrial type of work which can come into Gibraltar, in order to widen and diversify the economy. What we want are industries or activities which are not open to Spanish blight. We are at the moment negotiating with two companies who have an interest here and whose work must be complementary to a commercial dockyard. The Dockyard could do some of the heavy work for these companies. We are conscious of this and we have got to press ahead with it. Mr Speaker, I am grateful.

MR SPEAKER:

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

HON CHIEF MINISTER:

Thank you, Mr Speaker. I think we ought to be grateful to the Financial and Development Secretary for those facts which have put matters in a clearer light than has hitherto been possible. I would like to deal with a number of matters and what has been said by Members opposite. In the first place I would like to refer to Mr Bossano's original contribution which, unlike his logical approach in many cases, was a bit of an outburst, perhaps because he had a full gallery or he wanted to go away early for something else. I am not going to deal with Mr Bossano's intervention as a trade unionist because as he says very clearly, despite his great involvement in trade unionism he is not here in that capacity. Nor does, in my understanding, the fact that he opposes it politically necessarily mean that it commits the whole Trade Union Movement to oppose it. As he and other trade unionists have always said, before they reject anything they will see what is on the table and I hope that they will look at what is on the table. I am sure that they will look at the different problems on the table. However, in his political role he takes a view which I think is dangerous because he talks about the land possibly being viable but being ours anyhow. Well, he has gone a long way from the virtual approach to the independence of Gibraltar, which I am sure he would like if it were possible, and which he advocates now to the integration ticket on which he was brought to Gibraltar in 1972 to fight the Government. He has gone a long way from there. From there he broke away from the Integration With Britain Party because he was a realist and he found that the British Government would not accept integration. He was a realist, he thought that he was fighting a losing battle and he changed his mind and went it alone for a while. Then he attempted, under the GDM ticket, to have enough candidates to form a Government to try and identify what the future of Gibraltar was. I think he did not succeed very much in that, either in the elections or even subsequently in the way which other people took their positions. When he then formed the Gibraltar Socialist Labour Party and stood again with other candidates in order to try and get a

majority to form a Government, his personal success was unquestioned but, regretfully for him, his party did not do very well.

HON MAJOR R J PELIZA:

Mr Speaker, on a point of order.

HON CHIEF MINISTER:

I am not going to give way.

HON MAJOR R J PELIZA:

I would like to speak on a point of order, Chief Minister.

MR SPEAKER:

With respect, will you please tell me what the point of order is?

HON MAJOR R J PELIZA:

Yes of course. Mr Speaker, I think the Chief Minister is introducing a subject that has not been discussed in the House, how the Hon Member, my friend here, started politics in Gibraltar, and it has nothing to do with the business of the day at all.

MR SPEAKER:

I completely and utterly disagree. The Hon Mr Bossano has made a statement insofar as the land issue is concerned, he has accepted the fact that the land belongs to us. The Chief Minister is saying that he has made a change of stance.

HON J BOSSANO:

He is analysing my whole political career but if he thinks that it is going to persuade anybody to accept commercialisation - I am patiently awaiting to see the connection - by all means carry on.

HON CHIEF MINISTER:

I am going on to the connection.

MR SPEAKER:

I am ruling on a point of order and nothing else.

HON CHIEF MINISTER:

Normally, I do not speak unnecessarily as perhaps some other Members do and what I say, I think a lot about. I have that sense of responsibility and I do not stand up without knowing what I am going to say and finish up going from one point to another like the Honourable and Gallant Member normally does. This leads me to a very important point because it is precisely on his outburst the other day when I was interrupted under the guise of a point of order that I meant to have said that though he got great personal support his party failed. Let me also say that when he went to that election he did not take the question of Gibraltar's independence as part of his manifesto. Therefore, when he says that the Dockyard belongs to us or that the other land belong to us and that, in any case, if the British want to have a base, well let them pay for it and so on, he is really not being consistent with the ticket on which he went to the election, however strongly he feels about it.

HON J BOSSANO:

If the Honourable Member will give way, he did not put in his manifesto that he was going to set up a Gibraltar Ship Repair Company.

MR SPEAKER:

Order, order.

HON CHIEF MINISTER:

Quite, quite, but I am entitled to say what I am saying now, that you did not put it in the manifesto. However, this is much more important, because we are reaching the stage where what the Honourable Mr Bossano is saying is that we are not being given anything, the British Government should pay for the Naval Base if they want it and so on. Well, that really means that his attitude is that we can go it alone without the British Government and if the British Government want to be here, they have to pay for it. Well, that, I think, would be the most disastrous thing that could happen. In the debate on the Naval Base, which I brought in lieu of the suggestion that we should go on television, I made it quite clear and I made no bones about it. I subscribe to this approach that would make Gibraltar completely free from external forces if it was guaranteed by those who want to follow us and others that that feeling one has got, that we have to go it either with Spain or go it with Britain, of that there is no doubt. We have to go it with Britain because the alley up which Mr Bossano would take us would eventually bring about a disengagement by Britain. Then the outcome would be absolutely clear, we would be swallowed up by our neighbours and that is the last thing that anyone wants, even Mr Bossano. He therefore does not see the consequences of his thinking in one respect and the result that it will bring in another. I will go on to what was said later on yesterday and was clarified - it deals partly with the point that he made that what was being done was putting a pistol at the head of the workers to accept

one thing in order to get the other. Let me be quite clear about this, that, of course initially, in this manner, the people who are going to suffer most are the workers of the Dockyard. There is no doubt about that because it is the Dockyard that is doomed to closure. If it had been the PSA or the DOE it would be the people of the PSA or the DOE but it happens to be the Dockyard and they are the people who are going to suffer most, of course. They are not being made to pay for the rest of the economy. They may have, like the rest of the economy or other people in the economy, to suffer hardships but their hardship may come sooner than the others if there were a deterioration in the situation. Let there be no question of saying that the workers of the Dockyard have got the responsibility for the rest. The workers of the Dockyard have got the responsibility for themselves, let alone for others, to see what is best for them and it is their privilege and their liberty to do so. They are entitled to commit suicide as well, if they want to. A judge said recently: "Well, if you start suicide, then for God's sake finish it properly." Well, I hope that that does not happen here, when we have a case of attempted suicide. The kind of exercise that has been mentioned by the Financial and Development Secretary of making a presentation to the workforce and letting them know what it is all about will have my full support. We have discussed this before. I am quite sure that this is the matter in which, despite the discipline and the feeling of membership that the union enjoys, particularly the Transport and General Workers Union, the workers and the Gibraltarians have also got a little piece of independence of mind. I hope that everything will be done through the Unions, not over the heads of the Union, but this is the case in which each individual must decide for himself and it is not one of those cases where the Union's executive, or a particular section of the executive, is going to decide the future of the men. I am sure that that would be the last thing that anybody in the Union would want. Even if the Dockyard workers are going to have this choice and, hopefully, gainful employment, it is certainly much more than some people in the United Kingdom who come under the axe of the present cuts are getting. The only difference is that they are paid some money. To have a say in their own future jobs, as the Dockyard workers are going to have here, is not given to the majority of the people who suddenly find themselves faced with redundancy because of the industry to which they belong or because of the factory to which they belong. The loss of 1,000 to 2,000 jobs is announced every day in the press. They are not given the chance to opt for other employment. Therefore, I hope very much that there will be meaningful negotiations by management with the workforce to bring the matter to a satisfactory conclusion. As I said before, and one way has already been indicated by the Financial and Development Secretary, we will help in any way that we can and certainly we can help in putting across what there is there, and let them judge. We are not going to tell them what to do because even if we did they would not do it if they do not want to. This is a free society and they are entitled to do that. The day we were to say British go home, then it will mean that Spain will come in and perhaps there will not be so much need for Gibraltarians to go to Spain. I did not speak on the amendment yesterday because, in fact, the main point made by the Leader of the Opposition, to which I wanted to reply was going to be done any-

how in my last contribution, not because I am afraid and I want to have the last word but because it is my right anyhow and because I think the picture is looked at better if you speak once only on one matter and not repeat yourself or possibly incur the reproach from the chair that one is saying the same thing more than is necessary. I hope I never do that. It is all very well, all the exhortations that have been made from the other side about the fact that they have been asking for unity, but what have they done about working for unity? I think my honourable colleague, Mr Canepa, cleared the way and all the letters that the Honourable and Gallant Major Peliza mentioned before were prior, except for one part of one letter, to my letter of the 15th June, 1983, addressed to the Leader of the Opposition after he chose, on his own, to write to all the MPs. On that day, on the 16th June, I wrote to the Leader of the Opposition saying: "I am writing to you with reference to the letter which you have addressed to Members of Parliament. You will recall that in your letter of the 3rd June you informed me of your party's view that there should be a petition to the Prime Minister, a letter writing campaign as well as a delegation from all the parties represented in this House of Assembly. You also informed me that you yourself proposed to write to Members of Parliament on behalf of your party immediately after the general elections results were known. In my reply of the 10th June, I made the following points:- (1) that at our meeting on the 10th March we had agreed that action on a possible campaign should be deferred and that further thought should be given by all concerned to the steps that might be taken; (2) that I continued to hold the view that the question of a campaign should be deferred until we had come to a conclusion of the commercialisation proposals; (3) that it was my intention to make available to you, early this week, copies of the relevant documents for you to consider prior to presentations being made to you and your colleagues by Appledore and by the Government Consultants on the 27th June, an arrangement which you were previously aware of; the documents were made available last Tuesday; (4) that, as you knew, we had in mind that I should visit London to discuss this matter before it was referred to the House of Assembly, now early July; (5) that I agreed in principle that an all party delegation from Gibraltar should make early contact with the British Gibraltar Group, that, as in the case of the letter writing campaign, I thought it was important to get the timings right and that I should like to discuss these two matters with you as events developed over the next 2 or 3 weeks; and (6) that I was sending a copy of the letter to Mr Bossano, who would also be receiving copies of the relevant documents on his return from the United Kingdom and who would also be attending the presentations referred to above. In the light of the above and of our discussions on the 10th March, I consider that your letter to MP's was premature. I believe that Gibraltar's overall interests require that there should be a high degree of coordination in this matter and not unilateral action by a particular political entity. Apart from the above, it is clear from the text of your letters to Members of Parliament itself that your approach was incomplete and likely to cause confusion in their minds. You state, for instance, that all the signs and all the evidence available to my party seems to indicate that the commercialisation alternative may well not be a viable alternative". Surely, it would have been preferable to await the main evidence which

you knew would be made available to you very shortly. If after considering that evidence and if after consultations amongst the 3 parties we were, in fact, to conclude that commercialisation would not be a viable alternative, that surely would have been the time to mount a united and effective campaign based on a careful study and real, as distinct from hypothetical, arguments with positive and realistic alternatives. He also states that it seems that redundancy notices will be issued to the workforce in the Naval Dockyard before the end of the current month. This is not in fact the case, no decision has yet been taken as to the date which redundancy notices will be issued. He also states "clearly there is a need for final decisions to be postponed pending further discussions, not only between the British Government and the Gibraltar Government, but between the Gibraltar Government and all political parties represented in the House of Assembly of Gibraltar". I go on to say, as you are fully aware, all concerned, including the British Government had agreed that this discussion must take place and it has been quite clear for some time that they will not finalise before the end of June. I reiterate my conviction that as you yourself have stated on many occasions we must all attempt to work together in the overall interests of Gibraltar and that our efforts are much more likely to succeed if they are properly coordinated and based on a reasoned case. Finally, I must again make it clear, as I have done for many months, that Gibraltar Ministers have not yet reached a firm view on the commercialisation proposals. When we do this, we will pursue our policy with the utmost vigour and determination, hopefully with the support of Gibraltar as a whole. He wrote a letter back confirming what he had done and I reiterated that I thought it was premature. Later on, in the newly launched party paper: "Clearly the leader of the Democratic Party of British Gibraltar took a leaf out of Sir Joshua's book by writing to all Members of Parliament at the most opportune moment, namely, shortly after their election to Parliament. Well, there is no doubt that this move clearly annoyed the Chief Minister. It was nevertheless recognised that it was a necessary move to make Members of Parliament aware of the problems that Gibraltar was faced with as a result of the closure of the Dockyard". So, really, he was responsible for the parting of the ways by writing over the heads of the British Gibraltar Group to all Members and I do not see that he has produced much by that wonderful effort of writing 650 copies to all the Members of Parliament. So, it is no use talking about the unity on the one hand and doing what you think is right or what you think is popular, on the other. So that, as I explained in my subsequent letter, and as I explained in paragraph 13 of my statement, I may well be asked why, on this particular occasion, I did not attempt to rally all concerned in Gibraltar with a view to unity, in the face of the problems ahead of us. The answer to this is what I said that my colleagues and I had the responsibility as a Government to go into the whole matter thoroughly first with the British Government and assess what might be achieved. We have done so and, as the House will see, we have achieved a very considerable amount. Well, I will say a little more about that. As it happened, the way events developed, it was quite clear that it would have been impossible to have been at reference all the

time, as the Hon Member has to be in dealings with these matters to his colleagues, in the very difficult negotiations that pursue and it would have been very difficult to have reached any agreement which would have had a consensus of all. It was a matter of doing what we could do in the circumstances, taking advantage of the strength of our case and presenting what we have done to the House. I make no further apologies about that. I think the Hon Member forfeited his right to say that there should be unity when he acted entirely on his own. So that, really, whilst we know that the letter writing campaign had very little effect, we were, in fact, invited to hear the very long letter sent to the Prime Minister. I do not know on what terms he is with her but the Hon and Gallant Member writes to the Prime Minister as if he were her next door neighbour. If he gets any reply from her or not, that is another matter. I am told, however, that she is a very well behaved lady who reads all her letters even though they may be purely acknowledgements.

HON MAJOR R J PELIZA:

I could show the Chief Minister a number of letters to which I have had a reply from the Prime Minister and I have no doubt in my mind that a reply will come. If not she will get another letter from me, I can assure you.

HON CHIEF MINISTER:

Yes, I am sure, I am sure that she makes a point of writing a letter to everybody, not just to the Hon Member, because that is her style. However, what the letter contains is a different matter and what one can achieve by talking to her is another matter. Now, the references that have been made about the British Nationality Act, I think, have been exposed more than once. The two things are completely different. Here we are talking about hard facts of defence, change of defence policy which is controversial in some respects but which is the definite policy of the British Government and where money is concerned. Perhaps we may hear things now and then that we do not get enough but my friends in England think that the way some of the industries are dealt with in England, some of the ways in which unemployment is talked about in England and the little regard it has for them compared to the extent to which they go to support the people of Gibraltar, is to them unbelievable. A lot has been said in connection with this question of the unity of a Gibraltar view. First of all, there would not be a Gibraltar view. We had it yesterday from Mr Bossano, that even if we went to an election and we won there would not be a Gibraltar view on the commercialisation of the Dockyard. So there cannot be a Gibraltar view because there is a fundamental difference of approach in some sections. That has to be realised. It is interesting that all the questions that were asked about consultations to the MP's, were not about whether the Gibraltar Government had consulted the Opposition but whether the British Government had consulted the Spaniards.

That was all that people were concerned about, not about whether the Government had consulted the Opposition. The Opposition has, to some extent, been much more in this than would normally have been the case, as my Hon Colleague mentioned, they have had the benefit of having

HON P J ISOLA:

Will the Hon Member give way?

HON CHIEF MINISTER:

No, I am not going to give way. I give you notice from now until the end of my intervention. Then, after that you can say what you like if you have the opportunity. The Opposition have been given the benefit of the reports, of course on a confidential basis, we have it on a confidential basis, therefore why then should not they have it on a confidential basis? Why should they be entitled to publicise documents that we, in the interest of Government itself, consider it not the policy to do so? This is happening every day in the United Kingdom and every day you get the same noises from the people who do not get everything they want - not then our fault but Governments. That is the normal answer. Of course, Government has got to carry on and Government has got to exercise its prerogative to decide what is in the public interest or not because ultimately the Opposition go home happily and the responsibility lies with Government and that is why the Government must have the last say. They were also given two presentations which were described as very useful by the Leader of the Opposition, though, as it happens, none of them were attended by the Hon Member. He was looking after his constituency in Stanmore or Ealing or wherever he lives. They were also given the opportunity of putting questions in order to understand a little better what was being put to them. What have these reports, particularly the last one, which we have paid or partly paid, what have they done? What has happened? Let me say that a very useful outcome of those reports is that we have been able to have our attitude towards the conditions of commercialisation strengthened by those reports because some of the reports on the Appledore Report say that the Appledore Report is over-optimistic and we have been able to rely on the other reports to say that the optimism of Appledore cannot be taken for granted and therefore that commercialisation alone is not enough and something must go with it. The Minister for Economic Development showed what we had said in February and it showed what the thinking of the Government was: that you have to diversify the economy, that you have to have added areas and added activity to diversify the economy in order to make up for the loss that may be suffered by a reduced Dockyard or by, perhaps, the ending of an era where people's jobs were guaranteed whatever else was happening in the world outside. Here is where we come to a very important factor. Gibraltar, by virtue of the Dockyard economy, has not suffered the wind of change that is taking

place in the rest of the world. The people have had secured jobs, overtime to some extent and security of jobs. All that does not exist anywhere else in the western world and the world is shaking and the world is changing and unfortunately it takes a little time but it has come to Gibraltar and this is a reality. We must realise that the economy of the world is in a shaky position and we cannot have continued and eternal security, irrespective of outside forces. Outside forces have come and they have to be faced. Fortunately we have options to face them with others are not given that option. All the reports equally said that nothing else could substitute the closure of the Dockyard for the commercial Dockyard. That is the outcome of all the reports. There was no other option except complete closure and nothing in its place. There was talk also about my having been cornered and other Members described it as stamped. Perhaps I might read, if I can find it, a piece of news that appeared in the Daily Express. I do not vouch for its accuracy but things sometimes have the knack of getting part of it right. It was an article in the Daily Express of the 27th July, 1983, that is the day we came back from England. Actually, I read the Daily Express - well, I do not usually read the Daily Express - I looked at it but I found that the edition that had arrived in Gibraltar when this was brought to my notice did not carry this piece of news but later editions carried it: "Maggie to the Rescue for Rock. Mrs Thatcher agreed a multi-million pounds package last night to keep the Rock of Gibraltar afloat. It followed a threat by the Gibraltar Government to resign and pass direct rule to London if Britain closed the Royal Naval Dockyard but last night the Chief Minister, Sir Joshua Hassan, signed the rescue deal with Mrs Thatcher". Well, that was not strictly true, but anyhow: "It will include a year's reprieve for the Dockyard, almost £50m on development aid, a gift of Ministry of Defence land around Rosia Bay to be developed as a Costa del Rock and British Government help in converting the Dockyard to commercial use. A statement about the deal will be made simultaneously today in London and Gibraltar". So far for having been stamped or threatened.

HON J BOSSANO:

Where are the £50m?

HON CHIEF MINISTER:

Well, that is the figure. Almost £50m it said but almost can be anything. Anyhow, if there is £26m on the one hand and £14m on the other, you have £42m, plus £1m a year for five years or whatever it is. I am not trying to emulate the Spaniards in mentioning millions but millions are there and the report yesterday in The Times of the parliamentary proceedings only mentioned the 'heady £28m for Gibraltar'. So that I really feel that any suggestion that we have been bullied about is completely and utterly untrue and I have the advantage, on this occasion, of having had my colleague, Mr Canepa, who has given an account of how things went. Mr Restano's contribution again pays lip service to unity but it

is rather interesting because he said that he found incredible that the new assurances were left out. It shows complete and utter ignorance of Government and the tasks involved in these matters. Nothing would have been more preferable for me, in presenting the case, to present it the best way possible. It was part of the agreement to have had it included but as I was speaking on the first pages of my statement, the last pages were being typed because we did not start working on the statement until after I saw the Prime Minister which was at half past five in London. A lot of it had to be dictated over the telephone and the rest was prepared on the plane and it is inevitable that one paragraph was left out but the fact that I did not quote it does not make any difference. If I had failed to quote something which was adverse then they would say that he was trying to mislead the House but I have failed to make the one, not only the most important one - and at the time of reading, I was reading and I was not thinking in terms of what I was reading - but the one on which I specifically asked the Prime Minister whether I could quote the fact that I had drawn her attention to that part of the agreement because I attached the greatest importance to it. She said that I could say that I had stressed that to her at our interview. That is the all important new clause which runs parallel, as the Leader of the Opposition himself has explained, runs completely parallel to the support and sustain policy which was enunciated after the closure of the frontier and that can apply to the closure of the Dockyard.

HON P J ISOLA:

Could I ask the Hon and Learned Chief Minister to give way? There is one little point that I had not noticed, actually, because this thing was brought in and that is that the commitment given there, which we welcome, does, in fact, refer during the present border restrictions. Therefore if the present border restrictions are not there, say, in the fourth year of commercialisation then there is no commitment. That is how I read it.

HON CHIEF MINISTER:

I appreciate that that is a possible reading of the statement but they made it quite clear, and that is why I mentioned it: "In line with the policy of supporting Gibraltar during the present border restrictions means the kind of sustain and support that we have been giving you whilst the border is closed and there are restrictions, we undertake to give you in respect of the outcome of the commercialisation of the Dockyard". That is a proper clear interpretation. I was cautious at first at that wording. Let me be perfectly frank, that is why I cleared it with the Minister and I cleared it with the Prime Minister herself and I said that I wanted authority to be able to refer to this as having been a vital link in our package. As I said, this was happening at the same time, or rather, within an hour of this, part of the statement was being

written and within two hours of that, part of it was being telephoned to Gibraltar for typing because the time of this meeting of the House of Assembly was not set for the convenience of the time from my arrival from the airport to this House. It was set taking account of the fact that I did not want a statement to be made in the House of Commons before it was made in this House and 3.30 pm was the House of Commons time which was 4.30 pm Gibraltar time. I wanted absolute synchronization of that, in order that we should not accuse, as has happened so often, that we should not accuse the British Government that news are released in England affecting Gibraltar before they are released in Gibraltar. Hence the rather short period of time between arriving here and getting the statement ready. Let me also tell you about the rush in these difficulties. During the last visit of Mr Stewart to Gibraltar heads of agreements were more or less reached but they were not forthcoming until Monday morning because they had to be cleared by Cabinet Ministers. The decisions were taken at the highest level up to the very last moment. For all these reasons paragraph 13 of my statement is absolutely true and correct. We would have been bogged down in details had we all wanted to get this Gibraltar view that would never have been forthcoming and we would not have been able to get even what we have got which I think is very good. I have been here most of the time, in fact, all the time and I have listened to everything that has been said and I think that we have had a good debate in which people have expressed their views quite clearly. Ultimately, in these important matters we are conscious that we are taking a very crucial decision. It would have been comfortable to have shared them with others in case things did not turn out well but it is also ultimately the responsibility of the Government to do what the Government thinks is best. We cannot forever stand immune from outside forces. Against the background of the inadvisability of the closure of the Dockyard, we are satisfied that we have obtained the best deal possible. A point was made whether I had fought for the continuation of the Dockyard. If Hon Members get their pages right because they were not, I am afraid, issued in the right order in the House of Lords questioning. Anyhow, I have got it right. Lord Boyd-Carpenter asked: "My Noble Lord told your Lordship that the Government of Gibraltar were recommending acceptance of this arrangement to the Gibraltar House of Assembly this afternoon but can he confirm that Sir Joshua Hassan and his colleagues have made it absolutely clear that they would infinitely prefer the continuance of the operation of the historic Naval Dockyard?" Then, Lord Trefgarne dealt with other matters and Lord Boyd-Carpenter said: "My Lord, will my Noble Friend answer my first question as to the attitude of Sir Joshua Hassan and the Gibraltar Government?", and Lord Trefgarne said: "My Lord, I apologise for not answering that question. Sir Joshua appears to be very happy with the arrangements that have been reached, no doubt he would have preferred the Royal Naval Dockyard to have remained forever exactly as it is but I am afraid that that was not one of the possibilities open to us". So that point was in fact made in the course of our discussion. We do not, happy as we are with the deal that we have obtained,

underestimate the difficulties ahead and the effects on the economy. I think my Hon Colleague, Mr Brian Perez, dwelt at length on that and there is no kind of misunderstanding whatever about the difficulties that we face but we do so conscious that we have got a fair deal which, if we know how to work it, can go a long way to overcome them. We have fought what I think was a good fight. We are satisfied in our own consciences with all the knowledge of how we have conducted the negotiations and we are satisfied that we got the best deal possible to give to Gibraltar as a whole and particularly to those who are totally affected in order to save ourselves from disaster. Mr Speaker, after many years of fighting the Gibraltar cause I have come to this House with a clear conscience that I have discharged my duty honourably to my people and that I have obtained the fairest deal possible and that I hope Gibraltar will take that opportunity.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion and on a division being taken the following Hon 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 Zammit

The following Hon Members voted against:

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 abstained:

The Hon D Hull
 The Hon R J Wallace

The motion was accordingly passed.

HON A J CANEPA:

The Hon Major Peliza raised, in his intervention, the question of Wimpy. I checked with the department. He raised the question of Wimpy's interest in the Command Education Centre Development Project. I checked with the Crown Lands Department. There is no record on file of any approach having been made by Wimpy. However, because the Surveyor and Planning Secretary himself returns from leave on Monday, what I will do next week will be to check with him whether there have been any verbal enquiries. However, there is no record of any formal enquiry being made.

HON MAJOR R J PELIZA:

I am sure, Mr Speaker, that the Hon Minister will pursue the matter, I know.

MR SPEAKER:

I understand Mr Isola that you have lost interest in the motion which still stands in the Order Paper.

HON P J ISOLA:

I will ask the leave of the House to withdraw it.

MR SPEAKER:

Well, there is no need. It has not been proposed.

ADJOURNMENT

HON CHIEF MINISTER:

I wish to move that this House do now adjourn sine die!

MR SPEAKER:

I will then propose the question which is that this House do now adjourn sine die. In so doing I will remind the House that the Hon and Gallant Major Peliza did give notice on the 6th July, as a matter of fact, that he wished to raise on the adjournment matters connected with the enfranchisement of the people of Gibraltar in connection with the elections to the European Parliament. Therefore, you are free to do so now.

HON MAJOR R J PELIZA:

Would you mind my asking, Mr Speaker, in total it is forty minutes, isn't it?

MR SPEAKER:

It is forty minutes. It is, by my watch 11.51 am.

HON MAJOR R J PELIZA:

I have no intention of keeping the House, Mr Speaker. I think that this is a subject in which, unlike the previous one that we have been debating here the whole day, I think that there is a certain amount of unanimity with the question of representation by Gibraltarians in the European Parliament. The reason why I want to raise it is because in June next year elections are taking place. I felt that it was necessary to bring the

matter to the House, first so that people in Gibraltar generally are made conscious of what is likely to be their fate in the few months to come and also to try and find out what the Government has done since the matter was last raised in the House and what it intends to do to ensure that the people of Gibraltar are enfranchised. I think that we, who feel very conscious of our democratic rights, must also feel very conscious that we do not seem to have this right together with most Europeans who belong to the EEC. In fact, there is a bit of controversy going on about British Citizens who do not reside in Britain but reside in Europe, in other EEC countries and who up to now, unlike their counterparts in the other nations, do not have the right to vote. They are conducting a campaign at this very moment, they are collecting signatures with a view to getting that right for themselves. Now, the House will recall, and I am going a few years back, that in 1977, on the 16th July 1977, we got a bit of a shock. Arising out of the question put by Lord Bourne in the House of Lords, in the answer given by Lord Goronway-Roberts, we were told that we were not going to participate in that election. He went as far as suggesting that the people of Gibraltar were quite happy with the situation when, in fact, neither the Chief Minister nor the Government of Gibraltar had been approached on that matter. I think that there was a bit of an uproar here because of the way that they had conducted the enquiry that was put by the Gibraltar Government on behalf of the people of Gibraltar, and particularly of the European Movement, as to this. I think, Mr Speaker, that I would like, just to be fair to the Hansard which is dated 15th July, 1977, on page 22, to quote the Chief Minister who said: "I think on that, it looks as if the arguments that were put in that letter were not being given, certainly on the 25th May, the consideration and respect that they deserved even if they had not agreed with it but certainly I think that the matter had not been treated with that consideration that a letter of that nature warranted". It referred to a letter that he had sent from Gibraltar and an answer to that letter was given in the House of Lords without, in fact, the Chief Minister having had a reply for Gibraltar. Then he went on to say: "As the letter states, all elected Members in the House of Assembly, are Members of the Gibraltar Branch of the Movement, and I confirm that they fully support the request that the people of Gibraltar, as community nationals, should be able to vote in the elections when they are held". Now, I do not think that anything has happened since then to indicate in any way that there has been any change of heart in the people of Gibraltar. I feel that situation is almost the same. Now, it so happens that in another debate in November that year, as a result of this, the House supported the motion that was to be taken to the European Movement so that it could be passed by the congress of the European Movement and so add support to the representations being made by the Gibraltar Government. That resolution was passed almost word for word as that which was agreed to in this House. I feel that it is important that I should read that resolution because it shows that we have got to do something similar and do it very quickly if we are going to have any chance whatsoever of participating at the next elections.

I will say why I think that it is very important that we should particularly now. I will read this: "At the congress of the European Movement held in London on the 26th November, 1977, at which all the United Kingdom Branches were represented, the following motion was approved unanimously by acclamation:- 'Recognising that Gibraltar and its citizens are within the European Community under Article 2274 of the Treaty of Rome and in view of the proposed enlargement of the community and the forthcoming elections to the European Parliament, the European Movement in Britain resolves - (1) to pressurise this Government and other European Community Governments to recognise that Spain would be in breach of Community rules if admitted to membership whilst continuing to blockade Gibraltar, and (2) to campaign for the enfranchisement of Gibraltarians in the elections to the European Parliament on lines similar to those applied to overseas territories of other Member States'". Of course, that refers particularly to the French territories. This resolution was slightly amended by an addendum which, in fact, came from the people, the British Citizens who live in Europe, who, as I explained before, are not being enfranchised. The following addendum by the English speaking Branch of the European Movement in Belgium was also approved: "To pressurise this Government to coordinate its legislation with the Government of the other eight Member States that all United Kingdom citizens residing in a community outside the United Kingdom are also able to vote in the election". We are now British Citizens and if we happen to be living in France we will not be able to vote. This is why, I am glad to say, at the last congress in November last year a similar resolution to this one was passed but it was incorporated as a whole, that British Citizens who are in European territories which are part of the European Community should have the right to vote. Now, that resolution was passed at the congress this year. Obviously, we have to take our line directly with Gibraltar. We can see that the other British Citizens in Europe are taking their line. They are making all the efforts that they can in that way. I also know that Lord Bethell is very interested but he is making very little progress, either with the British Citizens or with us. That, of course, does not mean to say that we have got to throw in the towel. I believe that it is absolutely vital for Gibraltar for the Gibraltarians, not simply because I think that it is a democratic right, that it is owed to us but also, I think, because we should try and be enfranchised before Spain joins the European Common Market. We may otherwise be forced, when the time comes, to have to participate in a regional election in which Spain will be included. I do not think that that will be in our interests and therefore I think that it is absolutely vital that we make a super effort to try and get through this time. Now, I know that the European Movement in Gibraltar is very keen to try to do everything possible within their power to bring this to the attention of the British Parliament and, of course the British Government. However, as we all know, the European Movement has got no piece, as you might say, no political piece as such. It is obviously the Government who has a much bigger say, and is much more listened to than the

Movement by itself. I want, first of all, for the Government to be able to give their full support - and I mean every Member of this House, not just the Government, the Government particularly, of course, but every Member of this House - to the European Movement in whatever action they may decide that they want to take to try and obtain this legitimate right of the Gibraltarians, in time for the next elections. I understand that they are considering the possibility of taking a petition to Parliament after acquiring as many signatures as possible from Gibraltar. I also know that the Chairman, or Chairwoman, when she was in England recently to hand over their memorandum to the Prime Minister, has been in contact with Albert McQuarrie who has already said that if he is wanted to present the petition, he will be more than pleased to do so. So, I do not think that we can find any difficulty whatsoever in having the petition presented in Parliament. Now, of course, I think that first of all, we have to convince Parliament because at the end of the day it is representations that the British Government makes to the relevant authority in the EEC that will carry the weight. If they insist and persist I can see very little difficulty in the European countries themselves accepting it. What we have to do is to convince the British Government itself. From the replies that we have had from them last time, I think that they have put quite a number of impediments, one of them being representation in the British Parliament. I do not believe that two wrongs make one right. I do not believe that because we do not have representation in the British Parliament, we should not have representation in the European Parliament. I do not believe that because they represent Gibraltar through the Foreign Office, indeed, they represent Britain through the Foreign Office in the EEC, however, that does not deprive the individual British Citizen in the United Kingdom from having direct representations in Parliament. That is very important. In fact, that is the balance of power as we all know. Therefore, that argument to me is totally wrong, Mr Speaker, and therefore I think that we have good arguments to pursue. I do not intend to put them here in this House today. I know that the Chief Minister and his Government are quite capable of doing this. So, Mr Speaker, what I am going to ask the Chief Minister if he will do this, and he must say this convinced that the Government is prepared to pursue this matter, and will the Government do it. I want to have this cleared. We do not want any differences too late in the day when nothing can be done. Is he prepared and is the Government prepared to pursue this matter? Is the Government prepared to get the Opposition to cooperate with him and does he really mean that? If he does, will he get cracking as soon as possible because there is very little time? Does he believe that the European Movement should be brought into this? Will he also give every possible encouragement so that the petition is as successful as possible? I would like to hear the Chief Minister unequivocally say yes or nay to this. I would not like the same thing that has happened with the Dockyard to happen on this, for everybody to slow down and do nothing about it and then find that the Government, at the end of the day, believes

that it is better not to take the matter up. This, to me, is very serious because I certainly have my ideas of what we should do and if the Government is not going to do it, I would certainly try to get it done by every possible means by whoever can do it. A little effort is better than none. Whilst I believe that the Government should throw its full weight behind this, as they said they would, in fact, in both previous debates that we have had in this House, I do hope that they will do it now. Now, Mr Speaker, I should finish up with a little quotation. In this case, Mr Speaker, I am going to quote a Member who was in the Opposition and now is in Government, and this is Mr Perez. He referred to everybody and he said: "I have heard the Hon Mr Canepa express the feeling and also the Hon Chief Minister but what I have not been very satisfied with, in hearing the Chief Minister, is what his intentions are and what he intends to do now".

HON CHIEF MINISTER:

Where is he reading from?

HON MAJOR R J PELIZA:

Page 227 of the Hansard of the meeting of 24th June, 1977.

HON CHIEF MINISTER:

Who said that?

HON MAJOR R J PELIZA:

Mr Perez, in Opposition. I am sure that perhaps he would say the same thing today if he were to be on this side of the House. However, I have brought it up, Mr Speaker, to show how important it is that if we do get a commitment from Government that that commitment stands and that they do not go back on their word. I am asking now, with all sincerity because this is vital. We must be absolutely blunt and clear on this thing. If the Chief Minister thinks that he can do something about it, he must say it now. If he thinks that he cannot, then he can also say that, that the Government will not pursue this matter. Therefore, Mr Speaker, this is the very reason why I have brought it up. There is very little time to go. We want this to get under way as soon as possible and I would like to hear it, since he said himself then that he was going to pursue the matter and Mr Perez questioned then what the Government had done since this was said here in this House. If he cannot give it to me now, and I can understand it, perhaps he could write to me or let me know.

HON CHIEF MINISTER:

Well, first of all, let me say that when we visited Strasbourg officially in 1980, I was particularly impressed by the strength of feeling of all Members of the European Parliament whom we met, from Madame Veil, the President, downwards, about the inequity of our not being enfranchised. There was no doubt about that although they may not be able to do much about it. There is no doubt about that. I have taken every opportunity that has arisen since then and I think I have a certain amount of correspondence with Lord Bethell, dealing with matters of the European Parliament, where this matter occurs and occurs again. It is less than fair to say that he has cooled down on his enthusiasm. I think that, like so many others, he has got a number of causes and sometimes he may be detracted from one, giving his attention to the other. Only yesterday, or was it the day before, I spoke to the leader of the delegation that came here about the EEC. In fairness, I want to be quite clear I did not raise this myself. I told him that I hoped that the memorandum presented by Mrs Baldachino would be considered in all its paragraphs. He said: "Yes, the whole thing will be considered, and there would be a due reply". Of course, that memorandum contains, among the vital elements in it, the question of enfranchisement. Therefore, from the point of view of policy, Government supports the idea that there is no reason why we should not, apart from the fact that we do enthusiastically support the idea in every way. What should be realised is that the Government is - I do not like the word impotent - in as difficult a position as the Opposition can be. I will fully support any matter but, if I may say so, this is one in which, perhaps, Members of the Opposition can prepare memoranda for joint meetings and so on. The Government, unfortunately, always depending on the same people on very vital matters, is and will now be very seriously engaged on this matter which we have debated today. To tell the Hon Member that I will be able to dedicate these afternoons to these matters with officials now would not be telling them the truth because we have simply not got the time to do it now. That does not mean that our enthusiasm is any less or that we are not prepared to support. So, this being a matter which is outside party interests and is overall, I would very happily leave the initiative of the working of this, not only to Members of the Opposition, but to my colleagues in the European Movement themselves to liaise with the Members of the Opposition in that movement, to prepare memoranda and bring them to me whenever my advice or my intervention is required. I cannot go further than that because it would be misleading. I know that we are going to find great difficulty. I know that they may say that parliamentary time is not available to do it now and in time for the next election. I know that there are difficulties about that. However, we will certainly support it in every way but I cannot say that I will devote a lot of time to the memoranda or that the official working to me can do that at this stage. It is just simply not possible. We are stretched and we have been, and I may have been at fault in not saying a general word of praise, despite the differences,

to all officials. Two who were not mentioned for their sterling work that they have done in connection with the Dockyard were Mr Pitaluga and Mr Montaño. Whatever the views of people, they have served Gibraltar very well and they are really stretched and will be for a long time. However, I am quite happy to support the idea and to give every encouragement possible to Members opposite and to the colleagues of mine who are in the European Movement. Before I sit, may I just, with regard to something that was said earlier, say that arrangements have now been made for a presentation to be made by Appledore to the Dockyard and to the public at large. Leaflets are being published on this.

HON J BOSSANO:

Mr Speaker, the Hon Member has mentioned Appledore but I think that when the Financial Secretary was talking in answer to a point by the Hon Member, he said that he meant all consultants.

HON CHIEF MINISTER:

Well, we have arranged the Appledore one now. I mean, we have been able to clear that. We will do the other one as well but we have not had time, it is a matter of arrangement.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion that the House adjourn sine die which was resolved in the affirmative.

The adjournment of the House sine die was taken at 12.10 pm on Friday the 29th July, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

18 OCTOBER, 1983

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Seventeenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Tuesday 18th October, 1983.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammit - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
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 OBE - Leader of the Opposition
The Hon G T Restano
The Hon Major R J Peliza
The Hon W T Scott
The Hon A T Loddó
The Hon A J Haynes
The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 6th July, 1983, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) The Postal Voting (Procedure) Rules, 1983.
- (2) The Elections (Amendment) Rules, 1983.

Ordered to lie.

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

- (1) The Traffic (Registration and Licensing of Civilian Vehicles) (Amendment) (No 2) Regulations, 1983.
- (2) The Traffic (Removal of Vehicles) (Amendment) Regulations, 1983.
- (3) The Traffic (Fees for Attendance After Hours) Regulations, 1983.

Ordered to lie.

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

- (1) The Wireless Telegraphy (Amendment) Regulations, 1983.
- (2) The Post Office (Freepost and Business Reply) Regulations, 1983.

Ordered to lie.

The Hon the Minister for Housing, Labour and Social Security laid on the table the following document:

The Accounts of the John Mackintosh Homes for the year ended 31st December, 1981.

Ordered to lie.

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

- (1) The International Trunk Calls Charges (Amendment) (No 2) Regulations, 1983.
- (2) The Inland Call Charges (Amendment) Regulations, 1983.

Ordered to lie.

The Hon the Minister for Education and Health laid on the table the following documents:

- (1) The Scholarship Awards Committee (Amendment) Regulations, 1983.
- (2) The Educational Awards Regulations, 1983.

Ordered to lie.

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

The Gibraltar Court of Appeal (Amendment) Rules, 1983.

Ordered to lie.

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

- (1) The Income Tax (Qualifying Companies) Rules, 1983.
- (2) A supplemental guarantee for supplier finance in respect of the Waterport Power Station contract.
- (3) Supplementary Estimates Consolidated Fund (No 2 of 1983/84).
- (4) Supplementary Estimates Improvement and Development Fund (No 2 of 1983/84).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 10 of 1982/83).
- (6) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 2 of 1983/84).
- (7) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 1 of 1983/84).

Ordered to lie.

REPORTS OF COMMITTEES

The Hon G T Restano laid on the table the Third Report of the First Session (1980) of the Public Accounts Committee.

Ordered to lie.

ANSWERS TO QUESTIONS

MR SPEAKER:

I would like to inform the House that the Hon Mr William Scott is leaving Gibraltar this morning to attend the Plenary Conference of the Commonwealth Parliamentary Association. I have therefore, in accordance with the practice that I have established, accepted the fact that he will not be able to ask his questions in the right order and I have asked the Clerk to call his questions first.

HON W T SCOTT:

Mr Speaker, with your indulgence I would like to thank you for allowing me that opportunity and also to the Government, hopefully, for answering them. In doing so, I obviously very much regret not being able to be here for the whole meeting.

The House recessed at 1.00 pm.

The House resumed at 3.15 pm.

Answers to Questions continued.

The House recessed at 5.25 pm.

The House resumed at 5.50 pm.

MINISTERIAL STATEMENTS

MR SPEAKER:

I will call on the Hon the Chief Minister to make his statement.

HON CHIEF MINISTER:

Mr Speaker, it is with pleasure that I rise to make the customary annual statement on the affairs of the Gibraltar Regiment. This statement covers the period 1 4 82 to 31 3 83.

Following a directive by MOD in line with its policy of modernisation and commonalty of equipment, the Regiment was re-equipped with new weapons to replace those which were already obsolete. The new equipment approved included:

- (a) 6 x 105mm Light Gun to replace 4 x 105mm Pack Howitzers.
- (b) 8 x Blowpipe Surface to Air Missile units to replace 4 x 40/70 anti-aircraft guns.
- (c) Issue of 35 new vehicles and 20 trailers which are required as a result of the new weapons.

(d) Issue of Clansman radio sets to replace the Larkspur series.

As a result of the adoption of the new equipment, the Regiment was re-organised and the establishment increased by 44, that is to say 2 officers and 42 other Ranks. The establishment is now therefore 280 composed of 21 officers and 259 other Ranks.

The introduction of the new equipment necessitated a very comprehensive training programme to convert to the new equipment and become operational as quickly as possible. The conversion training, with the assistance of the Royal Regiment of Artillery started in December 1982 and ended with the firing of the new weapons in the UK in March 1983.

The Regiment took part in, as is now the usual practice, on a number of ceremonial duties. In addition to the four annual training camps held in Gibraltar during the period under review, a total of 212 members of the Regiment drawn from the Air Defence Troop, the Field Troop, and the Infantry Company, attended training camps in the United Kingdom at Manorbier, Larkhill, and St Martin's Plain.

The Corps of Drums carried out their annual camp in Gibraltar as a lead up to their participation in the Queen's Birthday Parade. Weekend and evening training continued in the usual way. The Regiment also excelled in several sporting activities of which two deserve particular mention:

- (a) Fishing
- (b) The Small Bore rifle competitions in which Lt Col E M Britto (ED) was the individual small bore rifle champion of the volunteer forces of the Army.

Local Shoots The three local shoots were held during the year: On 22 May 1982, 22 January 1983 and 16 March 1983.

The Regiment took part in the last phase of Exercise "Winter Rain" nicknamed Ex "Wild Geese". This was a Command Post Exercise lasting 48 hours in which the Regiment acted as one of the lower controls on the military command net. The Regiment was also involved in a Fortress run-recall exercise, Ex "Irish Harp", in which most of the roles of the Regiment were practised. The average attendance of Territorial Army personnel throughout the exercise was 89%. The Regiment was also involved in Ex "Pronto's Pip", another set of Fortress run Command Post Exchanges lasting approximately 12 hours each. The Air Defence Troop of the Regiment took part in several air defence exercises in conjunction with the RAF and the Blowpipe Troop of 32 Guided Weapon Regiment. The Infantry

Company organised their own exercises at section, platoon and company level in which the different techniques of attack, defence, patrolling, cordon and search and key point duties were practised.

The Infantry Company took over Frontier Guard Duties from 1 Staffords from 3 to 5 December 1982. The company provided a platoon of 1 officer and 30 other Ranks who were rostered around so that the whole company would take part in the duties.

Amongst the ceremonials which the Regiment carried out were the mounting of the Convent Guard and provided the Guard of Honour, Colour Party and the Guard at the Convent on the occasion of His Excellency's departure on 4 October 1982 and the Guard of Honour and Colour Party on the occasion of the arrival of His Excellency Admiral Sir David Williams on 26 October 1982.

1982/83 has therefore been a very exciting and important year for the Regiment as it has gone through one of its major changes in its history. The Regiment is now equipped with the latest weapons applicable to its role.

Recruits

Members of the House will be glad to note that the Regiment's activities are attracting many youngsters to join their ranks. The Regiment organised a recruit selection weekend from 3 to 5 September 1982 for 40 potential recruits for the Volunteer Reserve. After undergoing a series of tests designed to test their physical and mental stress and aptitude, 23 were selected to undergo training from 17 to 31 October 1982.

In conclusion, Mr Speaker, I am sure this House will join me in expressing our sincerest appreciation of the work done by Lt Col D L Collado OBE, who retired in 1982 and in wishing Lt Col E M Britto Ed, who assumed command on 1 8 82 all the success in the future. The Regiment continues to play an important and very effective role in Gibraltar. Members will also wish to join me in thanking the Regiment and wishing them well in their endeavours.

HON MAJOR R J PELIZA:

Mr Speaker, I thank the Chief Minister for making the statement to the House. I think it is important that the people of Gibraltar should know how the Regiment is functioning and I associate myself and all my colleagues here with all the congratulatory words of the Chief Minister. There are lots of people to congratulate individually and collectively

and of course it would be I think unnecessary for me to repeat them all. I would just like to point out that perhaps the greatest award that can be given to a military body is the weapons that they are entrusted with and the fact that the Regiment has been entrusted with the latest weapons shows that they are a capable force, an efficient force and a trustworthy force and of that I think we should be very proud. Secondly, I think, the other point that is probably worth mentioning is that a society which voluntarily is prepared to defend itself shows that it is a society that is worth keeping by the people who form it and the fact that this is done voluntarily and the fact that the attendance to drills as mentioned by the Chief Minister is so high shows that this will to defend the society of the Gibraltarians is very active and real and I congratulate the Regiment for personifying that feeling of the Gibraltarians.

MR SPEAKER:

We will go on to motions now.

MOTIONS

HON M K FEATHERSTONE:

Sir, I beg to move: "That this House approves the new Highway Code, Gibraltar." The Highway Code, Sir, under the Traffic Ordinance, if it is going to be promulgated, must have the approval of the House of Assembly and the intention today is to seek that approval. Honourable Members have had a copy of the new Highway Code circulated to them. I would like to make two apologies. Obviously, since we have not had it printed, the copy is in proof form and therefore there are a number of printing errors, and of course the second apology is that it is not in its proper colours, but it is stated what the colours will be by marginal notes. Now, Sir, the previous Highway Code was a very flimsy little booklet which I think was issued sometime in the early 1960's, it was priced at one shilling, well, today one shilling would probably be somewhere around 50p, but the new Highway Code is a much more substantial document, it runs to some 60 pages and it contains practically all the points that are in the Highway Code in the United Kingdom, plus giving additional criteria for international traffic signs and road markings but on the other hand instead of being like in the United Kingdom for driving on the left, it is adapted for driving on the right. The main salient differences in the new Highway Code is that there are a much greater number of pages devoted to traffic signs, perhaps it gives an idea of the complexity of driving today that we had over 100 signs in the highway code of today whereas there were only 16 in the previous one. It also gives a

section on what the road user on foot should do and it gives one specific section which I would recommend to the general public to teach their children what is known as the Green Code or the Green Cross Code so that children are brought up in the proper way knowing how to cross the streets. There is also a section of the code for the road user on wheels and one of the small amendments which has been pointed out to me already and which I am happy to incorporate, is the question that motor-cyclists should not only wear their crash helmets but they should wear them properly secured. It has been pointed out to me, and I agree with the situation, many motor-cyclists put their crash helmets on but do not secure it properly and in the event of an accident it is quite possible that the helmet falls off and the person can suffer injury. If they are going to wear helmet then, of course, it should be properly secured. There is also a section on how to park, especially parking on hills, something which is very relevant in Gibraltar where we have a fair incidence of ups and downs, and there is also details on the riding of bicycles. All in all, Sir, I think the new Highway Code is a very comprehensive document and it is our intention that the initial time that a person goes to get a learners licence, the fee will be increased from I think at the moment it is £2 to either £3.50 or £4 but a free copy of the Highway Code will be given. The Highway Code will also be on sale for anybody that wishes to get one. If Members have any specific improvements that they feel should be incorporated, I shall be happy to hear them and after giving due consideration with the police, we will try and incorporate them and see that we get the best possible Highway Code that we can have since it is going to be the relevant document for possibly the next ten years or so on our codes. I therefore commend the motion to the House, Sir.

Mr Speaker then proposed the question as moved by the Honourable M K Featherstone.

HON A T LODDO:

Mr Speaker, I am sure, on this side of the House we all welcome the new Highway Code. I certainly do. I think it is long overdue and, possibly, the partial opening of the frontier with a possible full opening of the frontier, will mean that motorists will benefit from this comprehensive Highway Code. One thing, Mr Speaker, is that it is a book that gives you the do's and don'ts of driving, and even walking, and I would like to say that once this comes into operation, I hope that infringements are dealt with as they should be. We have a little booklet which everybody seems to ignore and I hope that this bigger booklet will not mean that there is more to be ignored. I see almost every day young people riding bicycles with no hands on the handlebars, free wheeling down the hills,

which means that there is no control over the vehicle. I see them driving up and down Main Street during pedestrianisation time, I happen to go to work when most of the persons in this House are asleep, in the early hours of the morning, and I see countless cyclists driving cycles with no lights, wearing dark navy blue raincoats and on more than one occasion I have had a fright coming upon such a person on such a vehicle, not expecting them. So I think, Mr Speaker, that anything that helps the ordered flow of traffic and the respect for human life on roads is to be welcomed but at the same time I do hope that once this Highway Code comes into operation the police will be more vigilant and that those who break the rules get punished for it. Thank you.

HON A J HAYNES:

Mr Speaker, my only concern is to satisfy ourselves that the Highway Code which has obviously been taken from an English booklet has in fact been localised sufficiently. I notice that under the signs there are obviously some which don't really bear much relation to Gibraltar, like wild animals and weight limits 10 tons three miles ahead. Is there any purpose of having signs which are no use or application to Gibraltar? And, furthermore, Mr Speaker, dual carriageway ahead and these other such items appear to me to be obviously irrelevant. Furthermore, is there provision in the signs for our own peculiar road signs as a double yellow line and a blue sandwich for towaway areas, is that a feature as such in the Highway Code, or not? Or has it simply been taken straight from the English Highway Code and if it has been, taken from the English Highway Code is there any reason why this couldn't have been introduced earlier?

HON M K FEATHERSTONE:

I am very grateful for the support from Honourable Members of the Opposition. I will just answer the Honourable Mr Haynes that this is not specifically a Highway Code based simply for Gibraltar, it is based for somebody who may learn to drive in Gibraltar but, hopefully, would be able to drive anywhere in the world and would therefore be acquainted with signs that he might meet if he were driving in England or in Spain or what have you. That is the reason for the low flying aircraft, deer crossing a road and whatever you have. I take the point about the two yellow and blue lines. We considered whether this be put in or not. We considered that it was something peculiarly local and therefore we would not put it in. I will consult once again with the police whether perhaps it may be better to put it in and if so it will be incorporated. Thank you, Sir.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, I beg leave in view of the long wording of the motion standing in my name that it be taken as read.

MR SPEAKER:

I think that Honourable Members will agree that this is a technical motion of which notice is not given and the papers circulated so we will take it as read and you can speak to the motion now.

HON MAJOR R J DELLIPIANI:

Mr Speaker, the Social Insurance Ordinance requires me to review annually the rates of benefits and contributions under the Ordinance, having regard to the general level of earnings and prices, provided that in determining the standard rates of old age pension for a married couple, this is not fixed at less than 50% of the average weekly earnings of weekly paid full time employees in Gibraltar, or 33% for a single person. At the time of carrying out this review the latest available survey is that for October, 1982, which shows average weekly earnings as £150.56. On this basis, therefore, it is proposed that the standard rate of old age pension for 1984 be £57.80 instead of £55 for a married couple and £38.50 instead of £36.70 for a single person. These new rates represent increases of about 5%, which is equivalent to the expected rise in the index of retail prices during the 12 months from January 1983 to January 1984. Other benefits under the Ordinance will be increased by approximately the same percentage, except for maternity and death grants that are still higher than in the United Kingdom. The proposed increases in benefits are estimated to bring the total expenditure of social insurance funds for 1984 to about £5.52 million. This is about 14.76% more than the estimated expenditure for 1983. The difference in the percentage increases in expenditure and benefits, that is, 14.76 as against 5%, is accounted for by the continuing increase in the number of old age pensions in payment and the higher number of claims to unemployment benefit in 1983 which is likely to continue in 1984. I have mentioned before in the House that over the past 4 years the rising expenditure on benefits has been met to some extent from the income from the funds investments. Over the 5 year period 1979/1983, benefits expenditure has increased by 144%, whereas the value of the fund has only increased by 55% from £6 million to £9.32 million. Unless this trend is reversed the fund is liable to be exhausted by 1988 and it is accordingly

proposed to utilise investment income in full to build up the funds reserves over the next few years. It is again proposed to increase contributions for the coming year by £2 per week, that is, £1 from the employer and £1 from the employee, of both men and women and proportionately less for juveniles. In percentage terms, the increase represents about 23% for men and 25% for women as against 30% and 34% respectively in 1983. It is estimated that these increases will produce revenue in excess of expenditure of about £314,000. This surplus will go some way towards cushioning the effects on the fund of the cockyard closure in December 1984, which as I explained last year could result in a claim on the fund of over £½ million. There have been strong representations from various sources for lowering the pensionable age for males from 65 to 60. One of the major factors which has prompted this representation is the hardship which is caused in the case of those persons who retire before 65, sometimes on a relatively low pension, and are required to continue paying voluntary contributions until they reach pensionable age in order to reap the maximum benefits of the scheme. The cost of implementing this proposal in full has been estimated to be in the order of £2 million and the cost of reducing the age to 64 would be in the order of £½ million. This is well beyond the resources of the fund and it is felt that no move should be made in this direction until the economic future of Gibraltar becomes clearer. Consideration has been given to the measures to be taken to assist those who are compelled to retire before 65 on a low pension and must still continue to pay contributions. One possibility could be to grant credit to all contributors after the age of 60, as is done in the UK. The cost of this could depend on the number of retired contributors between the ages of 60 and 64 but that number would be difficult to predict at this stage in the light of possible change in the employment policy over the next few months to meet the growing unemployment situation. The granting of credit after 60 would be more equitable and could more easily be borne by the fund if the scheme were geared to the payment of pension being conditional on retirement rather than automatically on reaching the age of 65 as at present. It has therefore been agreed that although the granting of credit up to 60 should not be introduced in 1984, serious consideration should be given to its introduction in conjunction with the move to a system of retirement pension in 1985. The current level of voluntary contribution is on a par with the contributions paid by self employed and is currently higher than the share of the contributions paid by the employed person whilst still in full employment. It has been decided that voluntary contributions should be maintained at their present level for 1984 so that they will be no higher than the amount paid during employment. I trust that what I have said will enable the House to support my motion. I will subsequently be presenting other motions under

the Employment Injuries Ordinance and the Non-Contributory Social Insurance Benefits and Unemployment Ordinance which are also part of the annual review of the Social Security scheme. Sir, I commend the motion to the House.

Mr Speaker then invited discussion on the motion.

HON P J ISOLA:

Mr Speaker, I am afraid the Minister has said quite a lot in his contribution and it seems mainly from what he has said that it is not possible to move towards a lower age for pensions in Gibraltar than the age of 65. He seems to have considered a number of options and discarded them because of the problems that the deteriorating economic situation in Gibraltar is likely to bring to the Social Insurance Fund. I don't think that we can disagree with him when he said that he cannot make any changes at the moment until the economic future of Gibraltar becomes clearer as the different economic situations develop over the next year. We would support the motion but we would certainly like to have a copy, no doubt we will see a copy of the address of the Minister because certainly before going into any detail on what he has said, I would certainly like further time to consider the problems that he has posed because there is no question about it, the Social Insurance Fund is of the utmost importance to old people. It is of the utmost importance to maintaining some sort of stability at the other end of the aged people and I think we should be very careful what we say and what we do without considering the consequences. We would certainly like to consider this one very carefully. We support the motion but we are leaving all our options open as to what we think ought to be done in the future until we have been able to absorb the facts and figures that the Minister has given us for which we are very grateful, of course.

MR SPEAKER:

Does any other Honourable Member wish to speak? Does the Honourable Minister wish to reply?

HON MAJOR F J DELLIPIANI:

I thank the Honourable and Learned Leader of the Opposition for the support, with reservations, on the motion. I am quite prepared, Mr Speaker, as I usually are with my shadows, when Willy Scott returns from the CPA Plenary Conference, to go into detail and to think of things for the good of Gibraltar. I commend the motion to the House.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, I again beg your leave not to read the next motion.

MR SPEAKER:

I am sure the House will grant leave so that you do not have to read the motion.

HON MAJOR F J DELLIPIANI:

Mr Speaker, following on the previous motion I am now moving this one which in effect is intended to increase benefits under the Employment Injuries Insurance Ordinance by about 5% in January, 1984, in line with the increases in benefits under the Social Insurance Ordinance. Injury Benefits for a man with a dependent wife goes up from £41.58 to £43.75p per week with the addition for children, gratuity on death due to an industrial accident from £9,400 to £9,900, and likewise from 100% disability for a weekly pension of £35 instead of £33.75p. For the third consecutive year it is not proposed to increase the weekly contribution under this Ordinance which now stands at 16 pence, 8 pence each from employer and employee. Barring some major disaster at the place of work, benefit expenditure will still fall well short of contribution income, let alone income from the investments of the Employment Injuries Insurance Fund which stood at over £1,100,000 at the end of June, 1983. Sir, arising out of the discussion of last year's motion, the Order now makes provision for aggravation of disablement in respect of which a gratuity can be paid to be based on the rates ruling at the time of aggravation and not as before. Sir, I commend the motion to the House.

Mr Speaker then invited discussion on the motion.

HON A J HAYNES:

Mr Speaker, I think it was last year that I spoke on this point of the aggravation awards being timed as from the date when the aggravation is noticed. If I can explain what that means, and if the Minister will correct me if I am wrong, it is just that I would like to know. Is the position therefore that somebody who suffers an injury which entitles him to the injury benefit under the schemes and is classified as a 25% disablement and is paid then a 25% disablement running as at the year of his accident. If that, say, was in 1981, and in 1985 it transpires that he has a further aggravation, the extra 5% which is awarded to him is as per 5% in 1985 rate.

Well I think, Mr Speaker, that the Government have introduced a social measure which will not, hopefully, be of wide application because one hopes that there are not that many people whose injuries are aggravated but one that nevertheless does provide a very good remedy to a problem which though few in number was one of some concern, I am sure that all my colleagues on this side of the House congratulate the Minister for committing his Government as he did last year to revise the matter and he has done so. We are grateful to him.

MR SPEAKER:

Does the Minister wish to reply?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am very grateful to the Honourable and Learned Mr Haynes. I think I can say that I am a Minister that listens to the Opposition and when there is something that I think is sensible and right I take note and duly do something about it. I commend the motion to the House.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, may I again beg your leave not to read my last motion.

MR SPEAKER:

I am sure you have the leave of the House.

HON MAJOR F J DELLIPIANI:

Sir, this is the third and last motion and deals with retirement, pension and unemployment benefit. Both are payable under the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance although as Honourable Members are aware the former is based from the Consolidated Fund and the latter from the Social Insurance Fund. With regard to Retirement Pension, the Order proposes an increase of £1.50 a week from £29.50 to £31, and of £2.20 from £44.40 to £46.60 in the case of a married couple. This is a transitional benefit dating from the time of the introduction of Old Age Pensions in 1955 and there are now only about 54 pensions in payment. The extra cost of the increase to the Consolidated Fund is estimated at £4,000 per annum of which £1,000 would be payable in the current financial year, 1983/84, in respect of the period January/March, 1984. However, provision for

this increase was made in the approved estimates and additional funds will not be required. In the case of Unemployment Benefits the intention is to raise the basic weekly rate by about 5% from £27.30 pence to £28.50 pence per week with increases of £14.10 for wives and £5.70 for children. Persons who qualify for the benefit but who have not been either ordinarily resident or insured in Gibraltar for at least 2 years since July, 1970, receive much lower rates which are also being increased proportionately. In assessing the effects of these increases on the Social Insurance Fund, account has been taken of the rising unemployment figures during 1983 which are expected to continue to rise during 1984. This can be attributed in part to the effects of the partial opening of the frontier on the private sector, of the lemmings crossings over on a daily basis by their thousands. The preliminary effects of the closure of the dockyard in December 1984 are already being felt in the case of those dockyard employees over 60 who are being retired and will continue to be felt during 1984 in the case of those who accept voluntary redundancy. As I have mentioned before, the closure of the dockyard in December, 1984, will impose a very considerable extra burden on the fund. The final figure for those who will be made compulsorily redundant depends on a number of factors and is not yet known. Present indications are that the figure could be in the order of 900. It has already been estimated that for every additional 500 persons becoming unemployed the drain on the fund on benefits and lost contributions would be over £1 million a year. I also said last year that it was not possible to quantify the cost to the Consolidated Fund on Supplementary Benefits which will become due to some of the unemployed after they have exhausted their 13 weeks unemployment benefit but that this could be as high as £1.5 million for every 500 unemployed. I make no apologies for repeating these facts as I feel it is my duty to bring before the House the fullest possible picture of those factors that make it imperative to limit increases in social benefits if after the closure of the dockyard the burden should be placed on the remaining contributors to the fund and their employers is not to be made intolerable. Sir, I commend the motion to the House.

Mr Speaker then invited discussion on the motion.

HON P J ISOLA:

Mr Speaker, we have listened with care to what the Minister has said and he has given us a lot of food for thought but there is one thing that I would like to say on this. All that the Minister says identifies the deteriorating situation in Gibraltar and obviously we are not going to discuss it in this debate, but highlight the problems through which we are going through and which we are expected to go through to a much bigger extent in

1984 and thought has to be given to that. But one of the things that I was struck by what the Minister said that he listened when things were said that were of a constructive nature, I would like at this stage of the proceedings to mention to the Minister that perhaps he could give thought when we come to the Elderly Persons Insurance Bill, perhaps he could give thought now that the rises in benefits are going to be less because of other problems in the community and therefore resulting in a lower percentage increase, thought should be given to putting right the social injustice that exists in Gibraltar, under which two sets of pensions are received free of tax and the elderly persons pension has to pay full tax, and that as increases are made to the elderly persons pension, the higher the proportion of tax and the higher the gap between those pensions and the pensions that don't bear tax. Since the Minister has offered to listen carefully to everything that the Opposition says, I would suggest that he listens to this fundamental social injustice that exists in Gibraltar with regard to three sorts of pensions, two of which are received free of tax and the other one of which pays full tax. I hope that when we come to the Bill he will be able to announce, almost at the end of his period of office in this Government that he is doing something about righting that social injustice.

MR SPEAKER:

Does any other Honourable Member wish to speak? I will then ask the Minister if he wishes to reply.

HON MAJOR F J DELLIPIANI:

Sir, I commend the motion to the House.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move the motion standing in my name in the Order Paper. I would be grateful to have your leave to dispense with the need to read this fairly lengthy motion.

MR SPEAKER:

Well I see no reason why we should differentiate between you and the last mover so I am sure the House will give you the necessary consent.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Sir. The notice will amend three unrelated items included in the Licensing and Fees Ordinance. I will deal first with the most important amendment. It is proposed to abolish from the 1st November this year the £1 tax payable by passengers leaving Gibraltar for destinations of 50 miles or less from Gibraltar by civil aircraft registered in Gibraltar or the United Kingdom or owned by a company incorporated in Gibraltar. The estimated loss in revenue based on the 1981/82 figures would be some £21,000 a year. Although it is difficult to be precise given the likely shift of sea passenger traffic to the air route following the announced withdrawal of the Mons Calpe winter service and the negative impact of travel restrictions recently imposed by the Moroccan authorities, the decision to abolish the departure tax for limited destinations was however considered and taken prior to these latter developments. Its aim is to assist the operator in maintaining a vital air link which has served Gibraltar well and, hopefully, to strengthen the case made by the operator through the Ministry of Defence for a reduction in airport landing charges payable by aircraft on the Gibraltar/Tangier route. In view of more recent developments, it is hoped that this measure will have a more positive and encouraging effect. Secondly, the motion seeks to increase the annual licence fee for operating amusement machines from £25 to £50 per machine. I should mention here that by Legal Notice 93 of 1983, published in last Thursday's Gazette, the annual licence for gaming, lottery ticket prices machines, will also be increased. Operators of these machines will, with effect from the commencement of the next licencing year, pay £500 per annum per machine instead of £250. The increase yield from these two measures is estimated to be £48,000 in a full year. The third amendment provides for an increase in the fee payable by members of the public for the attendance at their request of a passport officer after normal office hours. The current fee of £15.50 per hour or part thereof, was set in March 1980, and it is now proposed to raise it to £21.50 to keep pace with salary increases. This fee, is payable by an applicant in addition to any fees that are payable for the issue of documents. Sir, I commend the motion to the House.

MR SPEAKER:

I now propose the question in the terms of the motion moved by the Honourable the Financial and Development Secretary.

HON MAJOR R J PELIZA:

Perhaps, Mr Speaker, he could just explain this rather considerable increase in the price of new passports which has gone

up from £16.50 to £21.50. It seems to me rather an exorbitant amount and I do hope that the Government is not trying to get money through the passports which is just in fact if anything a question of the cost of the passport itself, although it seems to me that £21.50 for a passport is very high.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think I may have misled the Hon Member. I did say in my statement that this fee is the charge made for requesting a passport officer to attend after hours, it is an overtime thing basically and as it has not been revised for the last 3 years they are just adjusting it in line with increases in salaries.

HON MAJOR R J PELIZA:

I am sorry, I misunderstood.

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

HON G T RESTANO:

Mr Speaker; I beg to move: "That this House approves the Third Report of the First Session (1980) of the Public Accounts Committee". When the Public Accounts Committee, Mr Speaker, was first appointed in 1979, there was a tremendous backlog of work that had to be caught up with in that it being the very first Public Accounts Committee there were quite a few Auditor's reports containing certain criticisms and so on and comments which had to be gone into and subsequently the committee has always been working a few years in arrears. I am glad to say that with this report which covers the Auditor's report of 1980/81, the Committee is now virtually up-to-date. Were it not perhaps for a little matter that may come up in the next few months like an election, I think certainly by the time the next Auditor's report is laid on the table before the House, the Committee would have completed its report of the last Auditor's report. This particular report, Mr Speaker, involved 22 meetings of the Committee and the principle witnesses who gave evidence were the Accountant-General, the Computer Manager, the Director of Public Works, the Principal Auditor, not the present one, his predecessor, the Director of Education, the Director of Postal Services, the Establishment Officer, the Commissioner of Income Tax, the Captain of the Port, the Surveyor and Planning Secretary, the Housing Manager, the Manager of the Victoria Stadium and the Director of Tourism. The Report itself is divided up into three parts. The first part is an innovation in that the Committee comments on follow-up action

on recommendations that it made in previous reports. The second part of the report deals with excess expenditure in the different departments, and the third part of the report refers to new matters which the Committee has investigated following the comments in the Principal Auditor's report. On the follow-up action on previous reports the Committee is concerned that after spending many hours and interviewing many witnesses and coming up with a report and recommendations to this House, recommendations which are accepted by the House as represented through the Treasury Minute which always follows a report of the Public Accounts Committee, that action is not being taken sufficiently seriously by the administration. The first of these that we highlight in the report are General Orders. Apart from the Committee's recommendations in its last report that there was a need to move swiftly over its publication, the House will know that the Principal Auditor's Reports have, I think, for the past seven or eight years touched on the question of General Orders. General Orders are a very important aspect of the Civil Service. General Orders define in detail all the conditions of work within the Civil Service and at the moment the General Orders that we have are totally and completely out of date. I think they date back well over 20 years and there is a need to get them up to date and there is a need to get them up to date in order to avoid any disagreements and disputes between management and staff and the Committee considers that not enough is being done at the moment to speed up the publication and, in fact, the agreement between management and staff on the General Orders. The second item where follow-up procedure we feel or at least the Committee felt at the time of drafting the report that not enough had been done to expedite was the legal action, or the possible legal action against KYCA Supply Company to which the recommendations of 2 reports of 2 or 3 reports back of the Public Accounts Committee refer. The principal reason for the concern is that there might be a time if there is not expeditious action when the case might become time barred, although after having drafted the report the Committee was informed that action was in hand and that legal proceedings had been initiated but perhaps that can be confirmed by the Attorney-General at a later date. The third point is the question of the Motor Vehicle Log Books. Again, when the Public Accounts Committee recommended that these be introduced, the Treasury Minute and therefore the Government policy agreed that this should be done but it hasn't. We know perfectly well that there is resistance from members of the staff, members who use public vehicles, there is a resistance to have motor vehicle log books kept consistently but at the end of the day one has to ask oneself, who is governing Gibraltar? Is Gibraltar being governed by the Government or is Gibraltar being governed by those who do not wish to have proper discipline implemented; I have not heard at any time and I don't think that anybody

has, I have not heard any argument, any logical argument, against having motor vehicle log books introduced and implemented. I remember in fact last year when Mr Bossano said he would be voting against the whole report because he was in disagreement with the introduction of vehicle log books and he was asked by Mr Canepa on what grounds. The only grounds that Mr Bossano could put forward was that the men did not want it and I do not think that that is really a very responsible attitude. I think that it should be evaluated whether for example, vehicle log books is a justified innovation and if there is no logical argument against it then I think the introduction should be made straight away. And the fourth item under the follow-up action, or lack of it, is the question of job cards. The Committee believes as it did when it made its report last year that the introduction of job cards could well streamline a lot of Government departments, particularly the Public Works, the Electricity Department, to name just two, and which could effect streamlining of work and cost effectiveness in Government. We have found that, I would not say that there is any disagreement but we find that not enough is being done within the departments where job cards could be introduced, to have them introduced. The second part of the report, Mr Speaker, deals with excess expenditure. Excess expenditure is of course expenditure made by departments without having had those funds approved in this House. The amounts are not very great this year and they relate to the Education Department, the Lands and Surveys, Post Office, Public Works, Recreation and Secretariat. In most cases the reason for these excesses of expenditure have been administrative errors, forgetfulness, really lack of proper efficiency and except for the Post Office, and the reason why there has been excess expenditure on the Post Office is because philatelic sales have increased and there was not time to come to the House to ask for supplementary funds. On excess expenditure your Committee concluded that except in the case of the Post Office Philatelic Bureau where part of the expenditure concerned was directly related to sales by overseas agents, your Committee was left with the impression that there had been a lack of effort in trying to adhere to the regulations and to the relevant legislation. Your Committee considers that some of the excess expenditure could have been covered by the authority of the House if action to obtain such authority had been taken at the right time and we recommend that a supplementary appropriation covering the excesses outlined should be approved by the House. One point that came out under excess expenditure and affected the Education Department, the Committee felt was worth bringing up in the report. And one of the reasons given for the Education Department excess expenditure was that in ordering school material they had catalogues and they had price lists but that in actual fact what happens is

that when the goods are received they are received in many cases at different prices to those in the catalogues, in other words, manufacturers and suppliers are not keeping to the prices in their catalogues for various reasons. The Education Department claims that this is the reason for this excess expenditure. Personally, as a businessman, I cannot see any business going into a relationship with a manufacturer or a supplier and placing orders, having a price list in front of them, and then having to pay 20% or 30% more or perhaps because the manufacturer has run out or the manufacturer, well, I would not like to put any reason but certainly this is not a satisfactory situation and we consider that the matter should be looked into to avoid this sort of situation. For example, a submission of proforma invoices whenever a specific order is placed and a proforma invoice which is kept to by the manufacturer. We feel there could be quite considerable savings and those considerable savings could be used to have more equipment for the schools and better equipment for the schools. I now come to the third part of the report which are the new items that the Committee investigated, and the first is the question of PAYE in the private sector. The problem here is of certain members of the private sector deducting the PAYE contributions from their staff and then retaining that and not passing that on to the Income Tax Department. The Committee considers that that, in fact, is an immoral misappropriation of funds. It is immoral for an employee to have paid his income tax and then have it retained by somebody to whom it does not belong. We are given to understand that there are not all that many firms who indulge in this practice, there are a few, and they do not send in their returns either. Sometimes when the Commissioner of Income Tax has had to sue for civil debts there has been a second problem and the second problem is the insufficient machinery available to enforce judgements. That is the problem in that area and the Committee concluded and considered that the point brought to its attention by the Principal Auditor reveals the situation which gives rise to serious concern. The amount of tax involved is very substantial and every effort should be made to see that persons do comply with the provisions of the Income Tax Ordinance. Your Committee believes that it has become necessary to consider very carefully how best the relevant provisions of the Ordinance could be strengthened to ensure payment. Your Committee also believes that it is immoral for any employer to misappropriate funds in this manner. In its recommendations your Committee strongly recommends that the Commissioner of Income Tax outlines the problem to the Attorney General who should in turn advise the Government on where the weaknesses in the legislation or the legal machinery lies. Once these weaknesses are identified, the Government should move quickly to achieve a situation where employers will be left with no opportunity to take advantage of the system. And if I may say so, one of the reasons given for the lack of enforcement appears to be the absence of the post

of bailiff in the Magistrates Court. Perhaps if and when the Commissioner of Income Tax and the Honourable and Learned Attorney General discuss the matter, they can bear that particular matter in mind. The second matter which arose out of the Principal Auditor's Report which did give us a little bit of trouble was the recommendation of the Principal Auditor that the Treasury Accounting system should be mechanised. The problem that your Committee was faced with in this connection was that on the one hand the Principal Auditor had made his recommendations but the new Principal Auditor and the other adviser to the Committee, the Treasury Adviser, did not agree with that particular recommendation. I think where there is modern technology one has to move with the times. However, having regard to the advice not only of the new Principal Auditor and the Treasury and also the Computer Manager, your Committee has given in conclusion considerable thought to the Principal Auditor's recommendations bearing in mind the views expressed by its advisers as well as the Accountant General and the Computer Manager, and considers that there may well be a need to improve operating systems within certain Government departments through a degree of modernisation and that this could be achieved through speeding up the computerisation programme in hand, namely, the payment of weekly wages and the billing for quarterly rates. Whether or not consultants should be employed, and there has been a recommendation that consultants should be brought out to deal with this matter, so whether or not consultants should be employed at this stage to advise on the extent to which computerisation could be introduced, is not an easy matter to decide upon. On balance, your Committee has come to the conclusion that every possible effort should be made to introduce the programme in hand - and there is a programme on computerisation in hand - as soon as possible and that further progress should be made in the areas already identified for computerisation before the computer section of the Treasury should take on any additional commitment. On this point your Committee recommends that the employment of consultants should be deferred until such time as the objectives already identified as essential, are achieved. A further point that the Committee considered was arrears of public utility bills. Up to the end of 1980/81, arrears in the electricity undertaking, potable water service and telephone service ran into millions of pounds. The Accountant-General said that he had difficulties in the manning of his arrears section. Again, as with the question of PAYE, it is certain individuals or certain entities who are taking advantage of the lack of manning in the arrears section, they are taking advantage of this, and arrears are growing and growing and growing. And there will come a time when I think people will just not be able to pay their arrears unless something is done straight away to at least arrest those arrears from becoming greater. In fact, we know, we know these figures for 1980/81

but the figures for 1982/83 are considerably larger. In conclusion, your Committee is concerned about the level of these arrears and considers that there is a need to introduce more effective measures to speed up the process of collection. Your Committee wishes to draw particularly attention to the value of outstanding telephone bills which on the 31st of March, 1981, stood at £520,229. In the case of hotels and other major subscribers, your Committee has come to the conclusion that the delays in the payment of these bills is totally unjustifiable bearing in mind, and I think that the House will note that we have said that it is unjustifiable in telephones. There is a certain amount of sympathy for hotels, I think, in their arrears of electricity and water where clients are not as aware as people in Gibraltar of the need to economise on water particularly and much water is used and there is, I think, a need for sympathy in that area. But where telephones are concerned the Committee feels that the situation is totally unjustifiable bearing in mind that these subscribers recover a substantial part of the amount payable to the Government from their clients at the time a call is made. Such recoveries normally include a surcharge or an element of profit and in these circumstances no subscriber should be permitted to manipulate monies which are payable to the Government for services received. Your Committee recommends that the policy over the collection of bills should be re-appraised in the light, of the growth in the value of arrears and that in the case of the telephone service in particular a less tolerant approach is necessary. Your Committee further recommends that the Accountant General should be given every support in order to build up a strong and effective arrears section which should be led by an officer with the necessary experience and authority to achieve the desired objective. The next point, Mr Speaker, also deals with arrears and that is in more specific terms arrears of rents at the Varyl Begg Estate. The reason for these arrears, as the House I am sure is well aware, is because of the situation of the leaky roofs where certain tenants were living in terrible conditions and refused to pay their rents because the conditions in their flats were so bad and I think that there is certainly a justification in this. However, now that the flats have been repaired, now that one understands there are no more leaky roofs, agreement should be arrived at with the tenants at least for the rents in the future. Of course, there were other tenants who in sympathy with those who were living in bad conditions also refused to pay their rents. Your Committee concluded and considers that because of the adverse conditions obtaining at the estate during the extended period when some flats were suffering from the effect of leaky roofs, that the Government should give very careful consideration to the terms of any settlement with the tenants. Your Committee is of the view that in the circumstances full consideration should be given to the legitimate claims of tenants who occupied the

flats suffering from water penetration and the recommendation is that every effort should be made to come to a satisfactory and equitable agreement with all tenants as soon as possible bearing in mind the considerations outlined previously and the need to settle all outstanding arrears of rents. The next point, Mr Speaker, was the Marina Bay berthing fees. Here there has been a difference of interpretation of the contract between the Government side and the New Marina with the result that the Government has received no part of the berthing charges at all. Your Committee considers that the disagreement over the interpretation of berthing fees should have been referred for advice to the Attorney-General as soon as this became evident. It also considers that the agreement with the Marina operators is over elaborate and likely to give rise to further dispute in the future and recommends that subject to the views of the Attorney-General on the legal implications of any attempt to re-negotiate the agreement, the objective should be for the Marina to make a specific charge for berthing and that the Government should receive a fixed percentage of that charge. The next point which the Committee investigated, Mr Speaker, relates to the supply of water to the Transit Centre in Town Range. Here there used to be certain tenants and they were living in, I understand, squalid conditions, no running water and no toilet facilities. To obtain water they had to go outside into an open air patio where there is one tap and obviously the situation there is unsatisfactory. These tenants, originally, were asked to pay weekly payments of 3 pence per person for the water that was used by all. But, in fact, it turned out that the amount of water that they were using came to £1.85p per person per week, instead of the 3 pence which they were paying and accordingly the weekly fee was increased to 5 pence. Obviously there is a tremendous disparity between 5 pence per person per week and £1.85, so the Public Works Department tried to instal a meter unsuccessfully, because of vandalism and every time that the plumber came along to put up a pipe and turned his back, that pipe disappeared and that is the situation as it stands at the moment which is not a satisfactory one. Your Committee agrees that there is a need to introduce individual metering and that the Public Works Department should propose a scheme to achieve this objective which is the most equitable method of recovering the cost of water supplied to the centre and recommends the introduction of internal metering and if possible that such a measure should include an element of improvement in the distribution of water and related facilities within the centre. And the last point, Mr Speaker, which was highlighted by the Principal Auditor was the fact that in one of the works put out to tender by the Public Works Department there was a conversion of a wash-house in Flat Bastion Road which took much longer than had been originally expected and eventually the Public Works had to

finish off the job and when they went to look for the original contract that contract had been lost and the Committee was subsequently told that as from that date all original copies of contracts are now deposited with the Financial and Development Secretary. The Committee had two main general observations. One was that senior officers who may be called to appear before it should be fully briefed to deal with the subject in hand. Although as a general rule witnesses have been able to deal efficiently with questions put to them there have been cases where notwithstanding that all officers are advised well in advance of the subject to be discussed, your Committee had had to cut short meetings because of the inability of witnesses to deal with the questions put to them. It has not happened very often but I think that it is worthwhile mentioning so that officers who are asked to appear before the Committee as witnesses should be as fully briefed as possible. A final general observation, Mr Speaker, is the question of collection of revenue. The report deals with arrears of revenue in public utilities, the New Marina, PAYE, and your Committee's overall assessment of the general situation regarding the collection of revenue is that Government appears to have been cornered into a position where it is playing the role of a benevolent banker to certain sectors of the community which takes every possible advantage to defer meeting their obligations for as long as they can and of course if arrears did not exist there would perhaps be more money in the coffers for improvement in other areas perhaps such as building houses. Your Committee considers that there is an urgent need to re-appraise the strength and strengthen the machinery for the collection of revenue in order to reverse the current trend and to safeguard the public purse. Mr Speaker, on behalf of the Committee, I would like to thank the advisers to the Committee, the Principal Auditor and the Finance Officer and those who have serviced the Committee, the Clerk of the House and the Usher, who has given a lot of his time to the Committee and I would like to thank them for their assistance. Mr Speaker, I beg to move.

Mr Speaker then proposed the question as moved by the Honourable Mr Gerald Restano.

HON A J CANEPA:

Mr Speaker, on behalf of the Government I would like to commend the Members of the Public Accounts Committee for producing an excellent report. I think they must have put a lot of hard work into it and I think they are to be thoroughly commended. It is, in my view, by far the best of the three reports that we have had. It is thorough and the recommendations are very precise, very straightforward and very concrete. Without wishing to anticipate what the views of the Government will be

on the various recommendations because that will be as is the established practice, the subject of a Treasury Minute which will be tabled in due course, I would like to say on one specific matter that action has been taken already in respect of the arrears in the Telephone Accounts because the Government had been giving some thought and discussion to that matter. The Government was very much ad idem with what has transpired to be the thinking of the Committee and before in fact we had had a sight of the report we were taking action because we felt that a distinction should be drawn between action taken in respect of, say, outstanding electricity and water bills where it is a matter vital to people's livelihood, and the question of telephone charges which is not quite in the same category and where precisely certain establishments have been collecting from their clients in respect of telephone calls being made from those establishments. We have drawn a definite distinction and action has already been taken to try to rectify the matter. We support the report of the Committee and as I say in due course there will be a detailed Treasury Minute on the various recommendations.

HON J BOSSANO:

I shall be voting against the report. I find the report quite illuminating but perhaps for different reasons from the ones that the Minister for Economic Development has spelled out although I can well understand his satisfaction at the moderate performance of the Honourable Chairman who has become almost institutionalised, I would say, through his contract with the Government machinery and the establishment. I can well see that he is becoming so used now to dealing with problems in this manner that one expects the trend of any future Government in which he takes part to be the question of minuting things, referring them, having meetings and cataloguing them and nothing ever materialises. Let me say that one peculiar inconsistency that I find in the Honourable Member's particular position is how he sees in his capacity as Chairman of this Committee the position of the Government as that of benevolent banker to the hard pressed-over-taxed people of Gibraltar who in other circumstances he defends so strenuously over the enormous burden of excessive rates, excessive water charges, excessive electricity and excessive telephones. It is surely not surprising to the Honourable Member that people should find themselves in arrears of telephone bills when he moved a motion in this House saying that people should not be metered for local calls. What are we talking about, have we got a benevolent banker that is lavishly dishing out interest free loans to the community of Gibraltar or a Government that is oppressing the community under the crushing burden of excessive taxation so that they cannot afford to meet their bills? But apart from that, let me just say that in other respects the question of General Orders in

spite of the thoroughness of the report, General Orders does not in fact lay down the conditions upon which Government officers are employed because General Orders goes back a long way in time. They are theoretically being revised at the moment under a very lengthy process because in fact for the first time there is staff consultation as to what General Orders should consist of whereas the initial General Orders were inherited, I imagine, from what was the Imperial system governing the Colonial Civil Service, the General Orders and Colonial Regulations were no different in Gibraltar from what they were anywhere else. But these things have not been, in fact, negotiated with the Trade Union Movement and I think whatever pious hopes may be expressed about General Orders and certainly it is true that it is a peculiar situation where public servants are supposedly required to be familiar with General Orders but they are out of print and totally inaccessible so they are not in a position to know what it is that they are required to comply with. But they do not lay down all the conditions that govern the employment of Government workers because in fact these are contained in a body of agreements which has got absolutely nothing to do with General Orders. General Orders is a relic of the past, it is in the process of revision, it is moving very slowly like everything else, like the pensions and all the rest of it and, therefore, I think that although publication of General Orders would at least make people aware of what it is that they are supposed to be complying with, it should not be forgotten and there is no indication that the Committee has been aware of it, that there is strong Trade Union opposition to Colonial Regulations and General Orders notwithstanding the fact that they are still there and notwithstanding the fact that theoretically they still govern not so much the conditions of employment of the Civil Servants but the behaviour of Civil Servants. I think on the question of the Log Books the Committee on this occasion from what I recall of the previous attack on the Log Book problem, seems to have taken a lower profile. I think they simply express concern about the fact whereas I think there was a more militant tone to the necessity to make sure that the Log Books are in fact put into practice. I do not know whether that means that the Chairman is now beginning to realise that you can take a horse to water but you cannot necessarily make him drink. But if he is beginning to realise that then perhaps his participation in the machinery of the Public Accounts Committee if nothing else has served to bring about some maturity in him so that he can benefit from it in not making such drastic statements of what should or should not be done when it is not possible to get the cooperation of people to a particular move that the Government wants to make. I shall be voting against the report.

HON P J ISOLA:

Why, Mr Speaker?

HON J BOSSANO:

Why? I am not sure whether the Honourable Member wants to know why I am voting against the report. I am voting against the report because I am against the setting up of the Public Accounts Committee, I think it is a complete waste of time, and it seems to me that in fact, clearly, you have got a situation now where Members of the Opposition are virtually defending Government policies without being in Government and certainly, I refuse to take part in it, I was against it and that is my reason fundamentally for voting against it, but if the Honourable Member wants to know why I welcome the emancipation of his colleague the Chairman, it is because I think we will all benefit from it.

HON P J ISOLA:

What I find really inconsistent on the part of my Honourable Friend, he welcomes the Public Accounts Committee, he welcomes the maturity achieved by my Honourable Friend Mr Restano, and then goes and votes against it. I think that is very uncharitable of him. I cannot understand the basic principle for his opposition to the Public Accounts Committee, his objection, particularly as this is a parliamentary Committee usual in a Parliamentary democracy where the Opposition is invited to have a look at the accounts of the Government and have a look at the departments and have a look as to how they spend their money. One may agree or not agree with the stand that the Public Accounts Committee has taken but I would have thought it was a very necessary ingredient of Government of the people by the people that the people's representatives should be able to examine how the Government has spent the money of the public and I think that is fundamental in a democracy. It can't be done in the House every body sitting down, it has to be done by a Committee and I personally, Mr Speaker, am very proud of the Opposition here which is always promoting parliamentary democracy is ready to take its full part in this Committee. However unpopular may be the result of it in the mind of my Honourable Friend and of others, and I think it is very unfair that my Honourable Friend Mr Bossano who is always promoting the idea of democracy and Government of the people by the people should not be in favour of something so essential to this democracy.

HON ATTORNEY GENERAL:

Mr Speaker, I do not wish to speak on the matters relating to

PAYE or to the Marina about berthing charges because they are matters which I think are properly to be dealt with by way of a Treasury Minute but I do have to refer to the matter of RYCA which was mentioned by the mover of the motion. The report refers to the legal action that has been taken in that matter, perhaps if I can just recap what the point of the legal action is, it is to establish whether or not RYCA stood in the relationship of an agent or a wholesaler in dealing with the Government from 1975 until the time when this became a public issue. Although the report does not say this, for reasons which if I may say have nothing to do with the authors of the report, in fact the proceedings were commenced in April, 1982, and the reason that the hearing was delayed after that was that initially the initial period during which a hearing could have been obtained was at a time when the judge who would have had to deal with it would have been somebody who had been dealing with that in my Chambers previously, or had been connected with it in my Chambers previously, and so there was a period which has got nothing to do with what I am about to come on to when this action could not have been heard in the Supreme Court. The present position is that a summons for discovery, a summons of directions it is called relating to discovery is set down for hearing in November and the object of that is to obtain discovery on both sides of the documents which each party holds. I do have to tell the House, to deal with the specific point made by my Honourable Friend on the other side, that the proceedings which had been issued relate to a period beginning of 1975 and going on from 1975 until, I think it was a period of about three or four years, perhaps five years. And I have to say that of that period there is an issue as to the first 12 or 13 months as to the question of whether the client is time barred. I say it is an issue, I want to disclose it to the House, I don't really want to say any more on that at this stage but I will give an undertaking if it will be accepted that when the House meets in December because my own time here is limited, I will explain more fully where that matter stands.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, purely for the record I would just like to say that a Treasury Minute embodying the Government's reply to the points made in the report will be tabled at a subsequent meeting of the House as early as possible.

MR SPEAKER:

Any other contributors? Does the Honourable Mover wish to reply?

HON G T RESTANO:

Yes, Mr Speaker, I would just like to make a few comments on some of the things that have been said. I am glad to hear that action has been initiated by the Government on the question of the arrears of telephones and that a distinction has been made between telephones on the one hand and electricity and water on the other. On Mr Bossano's contribution I think he did not hear me at the beginning, perhaps he wasn't in the House. I did say that this year the report had been broken down into three parts. The first one which was a new section, the follow-up action, or lack of it, of previous reports. When he says that nothing ever materialises I think that some haven't materialised and when they don't materialise then it is up to the Committee to highlight what action has not been taken. When he refers to my motion on the telephone metering connected to this, of course, he is talking about two completely different matters. If DPBG had been in Government, yes, we would not have introduced metering for local telephone calls, that I can assure the House. However one has to realise that if a law is passed and that law was passed to introduce metering and it makes people having to pay then that law has to be adhered to. It is not a question of saying "Oh, how can he be pressing for arrears to be paid when he disagreed with the telephone metering?" Of course, I, as an opposition member, as a member of the DPBG, I disagreed with the metering but then that was not in our hands it was in the hands of the party in power and as Public Accounts Committee it is the duty to highlight areas where money is not being properly collected. But on the question of Log Books he said that we had played down the question of motor vehicle log books. Well, I do not know whether the Honourable Member is aware but what happened is that the Committee makes the recommendations, those recommendations are considered by the Government, a Treasury Minute is laid in the House saying whether or not those recommendations are acceptable. In the case of the vehicle log books we said all we had to say in our last report. The Government considered the recommendations and accepted the recommendations. The only thing is that action has not been taken by the Government, I think the Honourable Member was outside the House he was not here otherwise I think he wouldn't have spoken in this way. It is not a question of the Chairman taking a horse to water and not being able to make it drink, it is a question of the Government, and in fact the report is not the Chairman's report, it is the report of the Members of the Committee of which I am the Chairman, and no doubt if there is political will and the Treasury Minute is not just a manner of saying yes and then not going to take any action, alright we would agree with the Honourable Member in that, it could well be, but if there is political will then motor vehicle log books will be introduced. I take the point made

by the Honourable and Learned the Attorney-General and we await with interest for his comments in December. Thank you.

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

The Hon J Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
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 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 Members were absent from the Chamber:

The Hon Sir Joshua Hassan
The Hon W T Scott

The Motion was accordingly passed.

The House recessed at 7.35 pm.

WEDNESDAY THE 19TH OCTOBER, 1983

The House resumed at 10.40 am.

BILLS

FIRST AND SECOND READINGS

THE TRAFFIC (AMENDMENT) (NO.5) ORDINANCE 1983

HON M K FEATHERSTONE:

Sir, I beg to move that a Bill to amend further 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 beg to move that the Bill be read a second time. Sir, this Bill really comprises 3 parts. The first part is the question which was brought up some little time ago when we amended the Traffic Ordinance with regard to taxis, and the Honourable the Leader of the Opposition pointed out that we had made an agreement with the Taxi Association under which a taxi could be driven by 2 named drivers but this was not permitted by law, and I said we would be bringing an amendment to the Ordinance to permit this as soon as possible. This is the first part of the Bill. It will now permit a taxi to have two named drivers. The second part of the Bill is to give the possibility that where a vehicle which has been imported as a taxi and has had the privilege of the reduced customs duty is off the road for a specific period of time either due to its being under repair or because the actual owner is away on holiday, that another vehicle may be used as a substitute but there are limitations to the period for which this can be done and it is hoped that it is not going to be used in every circumstance. The third point, Sir, is perhaps an innovation in Gibraltar. We are finding, particularly at the moment in the parking areas at British Lines Road that certain people are openly flouting the conditions under which they go in to park. One of the methods of flouting the parking conditions is that they go in and pay for a 24 hour parking period and stay there for a period of 2, 3 4 even 6 or 7 days. There is the possibility of towing them away but this is a very cumbersome procedure and we are going to suggest under this new law that a device may be attached to one of the wheels which will prevent the vehicle from being moved. At the same time as the device is attached to the wheel a sticker will be put on the windscreen giving instructions to the driver not to move the vehicle, this is the same procedure as is done by the Metropolitan Police in London and I believe it is called the Detroit Boot. Basically, the intention is to start using this type of boot in the car park but the law will permit it to be used on the ordinary roads in due course. The removal of the boot will be by payment of a fee either to the Police or to an authorised officer who will then not only remove the boot but may also claim in the case of car parks the amount of fee that should have been paid and were not paid at the right time and if it is in the open road then, possibly, the charge is for a parking offence. There is also a small section which defines the meaning of traffic signs, this gives the powers for new traffic signs to be promulgated by regulation. All in all,

Sir, the intention of the Bill is to further improve the traffic situation in Gibraltar which, if it is allowed to deteriorate as it has done over the last few years into a semi chaotic situation, it is essential that we must have reasonably strong traffic regulations and this Detroit Boot is part of the idea so to do. I therefore commend the Bill to the House; Sir.

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:

Mr Speaker, I would like to speak on one aspect of this Bill and that is the question of public service vehicles and taxis and I think other Colleagues of mine on this side of the House would like to say a few words about other aspects of the Bill. The Minister did not in fact say at the last meeting of the House that he would bring amendments as soon as possible. If I remember what he said was that there was no hurry to introduce a second assistant driver and therefore it could wait for a later date but, anyway, that is just by way of comment. Mr Speaker, we are a little concerned about Government policy on employment in Gibraltar as enunciated in this Bill. When this agreement was being praised by the Government and by the Minister, he said "we are going to increase employment opportunities in Gibraltar because we are providing for a second driver to each taxi but that driver must not be someone in alternative full-time employment". That is what was agreed with the Taxi Association but like every agreement the Government makes it soon whittled down to suit whatever political purpose it has in view. The amendments brought to this House by the Minister go much further, provides for any assistant driver to be brought in of any kind provided it can be changed no longer applying to the Transport Commission, drivers can be sacked and employed on a daily basis, that is the provision in the Bill before the House. They just go to the Secretary of the Transport Commission and say: "Take this guy off and put this guy on". Mr Speaker, when I talk of inconsistency of Government policy I would only like the Minister for Labour to recall what he told the Gibraltar Chronicle only a few days back when he expressed concern or he was reported to have expressed concern at the employment situation in Gibraltar, at the growing unemployment and even threw out the idea that he thought there would be a need to obtain a permit for a part-time employment as well and Hon Members will recall the caricature at the bottom of the Chronicle that day of the guy who said: "Well, how am I going to get over this one? How am I going to have part-time employment during the hours of my

full-time employment?" And the Minister was putting forward a policy with which we may or may not agree but at least he was saying: "I feel that with the employment situation in Gibraltar as it is, I feel that we should even have permits or require permits for part-time employment". And then in the first piece of legislation that comes to this House after the Minister's statement we find that a second driver is introduced, that the spirit of the agreement is not in the law. Alright, the Minister will say: "Well, that is the agreement, it will be observed like everything else". I don't know if the Minister has any reports about how the agreement is working, I don't know whether he has any reports about the situation in, for example, Four Corners where people coming in either have to go into the town area or go on a tour or else they are not accepted, I don't know whether he knows that in the air terminal there have been cases or there has been one case certainly to my knowledge which I brought to the attention of the Minister, of taxi drivers refusing to take a fare into town but only accepting fares for tours. Mr Speaker, we do not wish to appear to be gunning for anybody, that is not the right thing, what we are saying is that the Ministers say one thing in this House and then administer it in an entirely different way or allow it be administered in an entirely different way outside the House.

HON ATTORNEY GENERAL:

Will the Hon and Learned Leader of the Opposition give way? If I can clarify a point on this. There is a clause, a section in the Traffic Ordinance already, it was in the Traffic Ordinance before this Bill was introduced, which says that you cannot name as another driver a person who already holds a regular employment and that is what is being relied upon to cover the point which concerns the Hon and Learned Leader of the Opposition.

HON P J ISOLA:

I am obliged for that clarification, Mr Speaker, I had not actually noticed it, I must say, but, Mr Speaker, that doesn't deal with the second point I made and that is that it is possible under this legislation for named drivers to be removed at will and what I would ask the Government is for provision in the legislation that sets out the circumstances under which a named driver can be changed because otherwise what is happening, Mr Speaker, is that the owner of a taxi will have the right to fire and employ at will which is not available to employers generally in Gibraltar. All he can do is go to the Secretary and say: "Take this one off and put this one on". And this, I think, must be a matter for concern. Mr Speaker,

the other points that I have made with regard to this agreement in the past are relevant, of course, to the discussion today. This agreement was signed back in June, 1983, and already there have been breaches of it and I would certainly ask the Government to tell us, I know it is very difficult to monitor a situation like this but it is so obvious in a number of cases that I would like to know, for example, what are the arrangements that Government has for supervising the terms of this agreement? For example, who is responsible in the airport terminal for ensuring that the law is complied with? Is it the Airport Manager or is it the Police? If it is the Police do we have assurances that there will be a Policeman there? We go to the frontier. Who is responsible there for the supervision? And I think it is in the interest not only of taxis but of the public generally that this should be made clear and that people should know where they stand. The clause, Mr Speaker, that deals with the question of changing the taxis that can be used for a period of three months and so forth, in other words, Clause 3 of the Bill which will make it easier to substitute cars and so forth we entirely agree with. We think that is essential, that is practical and it is something that can be done but the question of changing named drivers is something which in our view should stay within the jurisdiction of the Transport Commission and it is something which should have guidelines as to the circumstances in which named drivers can or cannot be changed. There is control, Mr Speaker, of landlords and tenants, there is control of employers and employees and a similar sort of control should exist here to at least afford protection of somebody who may have left full-time employment to become an assistant taxi driver, there should surely be protection there for that purpose as well. Mr Speaker, that is all I have to say on this aspect of the Bill, Colleagues of mine I think want to say something else about the question of clamps and so forth.

HON A J HAYNES:

Mr Speaker, I must say I didn't really understand what the Attorney-General was saying on the question of the two drivers to one car.

MR SPEAKER:

He referred to the main Ordinance where there is a section which provides for the purposes that the second driver must be a person who is not in full-time employment, is that correct?

HON ATTORNEY-GENERAL:

Mr Speaker, if I may just repeat the point. The concern of

the Opposition as I understood it was that there was no provision restricting the kind of persons who could be specified as additional drivers. The point I was making was that before this Bill came into the House in the Ordinance as it now stands there is a provision which says that additional drivers cannot be people who already have regular employment and it is on that basis that we have covered the point that was concerning the Opposition.

HON A J HAYNES:

Is the Attorney-General saying that the Traffic (Amendment) (No 2) Bill incorporated section 3 of the agreement made between the Minister and the President of the Gibraltar Taxi Association, is that the position then?

HON ATTORNEY-GENERAL:

The sole purpose, as I understand.....

MR SPEAKER:

I am afraid we are not going to have a ding-dong in any manner or form. This is a debate, you can make your point and then perhaps you will give way at the end.

HON A J HAYNES:

It is for clarification. Perhaps, Mr Speaker, before I make my contribution I should note that I have an interest in the matter as a solicitor for and on behalf of certain people who are in the process of applying for a taxi licence. Having said that, Mr Speaker, I feel I would like nevertheless to make my contribution on the subject. In the first instance, Mr Speaker, I reiterate the concern expressed by the Leader of the Opposition relating to the powers of dismissal given to the registered owner of a licence. It could even be construed to be in conflict with the unfair Dismissal Ordinance in that no warning need be given, it is just a purely administrative matter which is decided arbitrarily and unilaterally by the registered owner of the vehicle. Sir, in those circumstances it would strike me that the registered owner, the licence holder of the taxi is given greater powers than any other employer or legal employer in our business and commercial world. It seems, therefore, Mr Speaker, that the gist of this legislation goes against the concept of the last 30 or 40 years which has controlled the legal relationship between people and I do not think that it is satisfactory to have this sudden and arbitrary power to remove someone as the named driver. Furthermore, it brings into question the position which is often claimed, as I understand it by the taxi drivers, that they are

self-employed persons. Is the position now, Mr Speaker, that a named driver is an employee of the registered owner? That is another point for clarification and if it is the case that the registered owner is now the employer of his named driver it goes against, as I have said, the recent legislation, since the second world war, which prevents anyone from being able to fire at will, it requires of him a certain responsibility towards his employee, towards those with whom he has trade and in the circumstances I do not think that this is going to improve the taxi service, I think if anything it is going to undermine the confidence of the named driver and I would like to know for what reason it has been thought necessary to give the registered owner of the taxi licence these powers? Have the Taxi Association pressed Government for this change in legislation? What is the need for this legislation? Why should the registered owners suddenly be given the power to be able to dismiss people out of hand? As I say, if one considers that now the registered owner of a taxi licence is the employer of the named driver, does this proposed legislation go against the Unfair Dismissals Ordinance? Does it mean that the registered owner is responsible to his employee in terms of PAYE, social insurance and so forth? And would he be required to make contributions as employed or self-employed? Mr Speaker, I hesitate, perhaps, if I say it but it is often publicly expressed that the Taxi Association behaves in a very sort of bully-like manner, is this more power that has been given to them? What is the cause and what reasoning has been given to us, Mr Speaker, for this legislation? I see no nods on the other side of the House. If I may continue to another point, Mr Speaker, that is the matter of immobilisation. Mr Speaker, I know the explanatory memorandum has been further expanded by the Minister for Public Works in so far that he has informed this House that the immobilisation devices are going to be used in the car parks. That does not appear from the explanatory memorandum and neither is this limited to that by the legislation. It is only his say so, Mr Speaker, that the immobilisation devices will be used in the parking lot. I wonder how long it will be before they are widespread over town.

HON M K FEATHERSTONE:

I did not say that they were going to be limited to the parking lot, I said they would initially be started in the parking lot but that they would be used in town in places where it was considered necessary.

HON A J HAYNES:

Would the Minister state what kind of places would be considered necessary. Mr Speaker, on this I notice another U-turn by

Government if I may be so bold. In July of last year in an intervention on this subject, both myself and my colleague Mr Loddo made suggestions to the Government and if I may refer to my own contribution I specifically asked Government to consider the introduction of immobilisation devices rather than using a tow-away facility. The then Minister in this so constant changing from one to the other was the Honourable Mr Zammit who informed me that such measures would be entirely inappropriate etc, etc, etc. And now, Mr Speaker, we hear that they are going to be introduced. But, Mr Speaker, perhaps I should remind the Members opposite of the point I made the last time. We on this side of the House understand that immobilisation is cheap and efficient and as such it is a very good punitive measure and it is in our view for the reason that it is efficient and cheap the best choice of punitive measure. But, as last time, Mr Speaker, we said that this may be a stick but we also require a carrot. If I can make myself clear, Mr Speaker, the point we are trying to make is that we cannot just have legislative legislation dealing with the parking problem in Gibraltar and that is all that we get from the other side of the House you get constant restrictions and further restrictions and further threats and further increases in fines to the motorist but what we don't get, Mr Speaker, is a place for them to park at. Where is the multi-storey car park that we so urgently require in the town? We said we would support Government measures of this nature ie immobilisation, such measures to be introduced, if they ran at tandem with a new car park. The other point in relation to the car park locking devices, Mr Speaker, concerns the charges that are going to be levied on the infringement. The Minister hasn't given any clear indications and we would like to know exactly how much they propose to charge for the removal of the locking device. Mr Speaker, with my reiterated concern in so far as relates to the proposed powers for the registered owners of taxi licences is all that I would like to say.

HON ATTORNEY-GENERAL:

Mr Speaker, I think there are one or two misconceptions about the scope of this Bill. The first point I would like to deal with is a minor point, perhaps, but an important point. This Bill is not doing anything else in relation to taxis except in one respect which I will come to. It is not doing anything else but extending the number of people in addition to the rest that I know who can drive a taxi. It is not introducing any other new principle in relation to the operation of taxis by individuals, it is just extending the number of owners. So far as enforcement is concerned the position as I see it is the same now as it was before this Bill was promulgated. The police have a general responsibility for enforcing the law and

that would include breaches of the traffic law. I can't see that anything in this particular Bill has changed the position. The second point is that the new sub-section 3B of Section 64A which is on page 138 is not intended to interfere with the employer/employee relationship. This provision has been adopted at the suggestion of the Transport Commission and all it is intended to do is to simplify the existing process whereby one can change the name of an additional driver in the public service licence. It does not do anything more than that. It is simply a machinery to change, proposed and seen by the Transport Commission. At the moment they have to be done by the Commissioner himself and all this is doing is saying that they can be done by the Secretary subject always of course to any direction which the Commission itself might give to the Secretary. It is not in any sense of the word interfering with the employer/employee relationship and again, this Bill introduces mainly a principle. At present it is possible to change the name of a taxi driver, nothing in this is adding anything to that extent, as I say, in the machinery respect. The rights of an additional driver as against the registered owner of a taxi are of course regulated by the ordinary law as to employee/employer, if that relationship be good, so it may be simply a business relationship between two partners. The last point I would like to touch on, Mr Speaker, is a point which I think my Honourable and Learned Friend wanted me to deal with and that was the effect of the No.2 Bill passed this year.

HON P J ISOLA:

If the Honourable and Learned Attorney-General will give way. I have been looking at the Traffic Ordinance provisions the existing ones, and the provisions where it says; "unless that it is satisfied that such person", if that was the one he was referring to which says, "provided the commission shall not insert the name of any person other than the present registered owner whether as a registered owner or as a main driver, unless it is satisfied that such person devotes his full-time to the driving of that taxi to the exclusion of any other occupation". That provision has been repealed. Is there another section because I just cannot find anything about that.

HON ATTORNEY-GENERAL:

Sir, perhaps at the Committee Stage I could bring the appropriate...

MR SPEAKER:

We are getting into specifics. I think at the Committee

Stage we can deal with this.

HON P J ISOLA:

Yes, but, Mr Speaker, it is rather important.

MR SPEAKER:

Well, you have spoken on the general principles.

HON ATTORNEY-GENERAL:

If we speak in terms of principle, Mr Speaker, there is still in force a provision which requires additional drivers not to be people who hold other regular employment.

HON P J ISOLA:

Is it in the Regulations or is it in the Ordinance.

HON M K FEATHERSTONE:

It was an amendment in 1970 which says: "Provided that the Commission shall not insert the name of any person as a main driver unless it is satisfied that such person has no regular employment". I think perhaps yours has not been amended.

HON P J ISOLA:

Well, it is not mine, it is the House's copy.

MR SPEAKER:

Anyway, we are going into specifics, I think that can be cleared before we get to the Committee Stage.

HON ATTORNEY-GENERAL:

I think in principle the provision is there and in Committee I can be more specific about it. The last point I wanted to cover was a point which I think the Opposition wanted me to deal with and that is the No.2 Bill. The only purpose of that Bill was to simply limit the total number of taxi licences which could be issued, no more, no less.

HON A T LODDO:

Mr Speaker, I think today has been the first day which the Minister, Mr Featherstone, has admitted to the chaotic situation of traffic and parking. Perhaps that is a good thing. Perhaps by admitting the problem we are on the road

to solving the problem. From time to time bits of legislation to deal with the problem have been brought to the House. This one is another such legislation. But, Mr Speaker, I fear that Government is merely pecking at the problem. I did on another occasion, I think it was in the same debate that my colleague Mr Haynes referred to, I did say that I believed Government should take bold and imaginative steps to deal with these problems. But so far all I have seen are negative steps. This latest one, again I agree with it, but it is negative. All we are doing is putting more and more obstacles, we are not solving the problem. The problem of traffic I believe, Mr Speaker, and parking is one that must be tackled on a number of fronts and they can't all be negative. The positive one is to provide parking for the motorists and when sufficient parkings are provided then by all means punish the motorist who abuses the road with clamps, towing away, parking tickets, or what have you. But, as I said, Government seem to be pecking at the problem. The flow of traffic in Gibraltar has been virtually the same since it was thought out by the late Mr Southgate, the one-way system that operates in most of Gibraltar. We had a slight change a few months ago at Cathedral Square. It seemed to be working and then we had to get a policeman to control at the new congestion point. Mr Speaker, earlier on in this House, we passed some legislation on derelict cars. I mentioned at the time that we were not doing anything about derelict cars. I mentioned at the time that we were not doing anything about derelict cars on the road and yet here we were tightening up the law so that it was an offence to abandon a car in your own back yard or on your own private bit of land. Well, Mr Speaker, I have not seen to date, any prosecutions for abandoning cars on the road. You see cars parked and they get dirtier and dirtier and then one wheel disappears, and then another, and then a headlamp, and then a bumper. How long must a car be parked in the same spot and be dismantled bit by bit before it is considered to be a derelict or an abandoned vehicle. And if it is an offence, why is the person who abandons the car not taken to court? Now we are going to have clamps and this of course is only to affect the cars that really do move around. Obviously, we are going to get something out of that. But the motorist who abandons his car, he gets away with it because if you put a clamp on his car he is never going to go for it anyway. That is one of the things we have got to do, get rid of all these old cars, make more parking spaces available. The multi-storey car park. I believe in a multi-storey car park. I do not think it should be built where it is intended to be built...

MR SPEAKER:

And you are not going to go into that either.

HON A T' LODDO:

Fair enough, Mr Speaker, but I do believe in that, I do believe we need one. That is a positive step. I believe in Traffic Wardens. I know they are not very much liked but that is another way you can tackle the parking problem and the traffic problem. I believe in time limits for parking in different zones which means that the cars will have to move and if they do not move they will get a parking ticket, a fine which they will have to pay but that will get cars moving, it will stop this practice of leaving cars anywhere for months on end. Mr Speaker, I would like to see bold and imaginative measures and although I agree with the clamp system, I think motorists who pay sufficiently already for the little bits of road we have in Gibraltar deserve more than the boot which is what they are going to get today. Thank you, Mr Speaker.

HON H J ZAMMITT:

Sir, I would just like to answer a question raised by the Honourable and Learned the Leader of the Opposition with regard to the air terminal and the responsibility as to who is responsible for the taxi situation at the air terminal. The Airport Manager is not an enforcement officer. It is true that the Honourable and Learned the Leader of the Opposition wrote a letter to me, we have had one registered complaint of taxi drivers refusing to take bona fide tourists to destinations and we have information that there appears to be a desire by taxi drivers to do rock tours and not to serve the community as they ought to be doing by accepting as the law requires, accepting to take bona fide clients to wherever. The matter, Mr Speaker, was taken up with the Commissioner of Police both by myself and by my department and I would like to remind Members that of course the enforcement of it is not for the air terminal manager, who is responsible at the air terminal for the good running of the air terminal as such, security and other requirements, but when it comes to the enforcement of the contravention of the Traffic Ordinance then, of course, the responsibility falls fairly and squarely upon the police. We are not, I must say, Mr Speaker, entirely satisfied, but we do accept the situation to a degree in-as-much that I have for the last, certainly since we had the first registered complaint, we have been monitoring police attendance at the air terminal particularly on the arrival of aircraft which is when we require it all the more. We note that all too frequent the police are unable to send an officer to that area which results in a chaotic situation in the traffic set-up, not just of taxi drivers but of people being allowed to park their vehicles indiscriminately on double yellow lines in Winston Churchill Avenue and thereby not using the pay car park opposite the air

terminal. It would be unfair of me to say that I am satisfied with the situation. What I can say is that the Commissioner of Police and other senior officers of the police force have promised to pay more attention in the supply of an officer on the arrival of aircraft at the air terminal. But I reiterate, Mr Speaker, the law under the Traffic Ordinance does provide and makes it an offence for a taxi driver refusing to take a paying passenger, we have had one complaint, the matter has been taken up, and I look forward to a betterment with the co-operation of the Gibraltar Police.

HON P J ISOLA:

If the Honourable Member will give way. Are the police saying they cannot send one of their policemen from Four Corners just across to the air terminal for an hour? Is this the argument, or is it that they say they have to send somebody from Central Police Station to monitor the traffic. Has that been explored?

HON H J ZAMMIT:

Mr Speaker, as far as I understand it the Executive Officer at the air terminal does ring up Four Corners on the arrival of aircraft if the policeman hasn't arrived, normally a half an hour or so before the arrival of the aircraft or minutes after its arrival because probably 20 minutes or so after it has arrived the area is cleared. It occurs, of course, with the Tangier plane, all the more now with the more frequent flights with the GB Viscount. We are told that there are difficulties in providing a policeman from Four Corners some times but I must say, Mr Speaker, that I have been down there on a number of occasions and there has not been an attendance of police and I brought this matter to the attention of the Commissioner who has promised to do his utmost to make sure that we are served by a policeman.

HON MAJOR R J PELIZA:

Mr Speaker, the traffic situation which has been terrible for quite a number of years is another reflection of a tired and unimaginative Government of Gibraltar, that is the reflection, made even worse by the fact that they have been working short of one Minister.....

MR SPEAKER:

No, let us not make the principles of the Bill an excuse to attack the Government, with respect.

HON MAJOR R J PELIZA:

If we don't press the Government to do something about it we are coming to the immoral situation.....

MR SPEAKER:

You are free to direct yourself to anything that you feel should be done under this Bill.

HON MAJOR R J PELIZA:

But the Government has got to be attacked on this Bill as you will see in a moment. To introduce clamps in Gibraltar when you allow people to bring cars into Gibraltar and once they are inside there are no parking places for them, that to me is immoral and it shows the lack of proper administration of this Government. Mr Speaker, I remember, I am going to be short on this address but I think I am going to be constructive as the Government will see, that during the short period that we were in Government already we were thinking positively and constructively, and one of the things that we had in mind was to have a road going on the side of Wellington Front which could be used and would not cost all that much and we would divert the traffic off Main Street quite considerably. Nothing more has been heard about that, Mr Speaker, and how many years have passed? Equally, Mr Speaker, we were thinking of making use of the roof of Casemates and the roof of Wellington Front for car parking. What has happened about that? Two little questions, Mr Speaker, which I would like the Government to answer. But all I say, Mr Speaker, is that this is another reflection and I think I am quite entitled to say so, of a bad and unimaginative Government.

MR SPEAKER:

Any other contributors to the debate on the general principles of the Traffic Amendment Ordinance? Does the Honourable Member wish to reply?

HON M K FEATHERSTONE:

Yes, Sir, first of all I would like to apologise if I didn't mention the question of somebody who is not in regular employment. I thought that the Honourable Leader of the Opposition knew his law, since in fact he cited this actual amendment in the last debate, and therefore I didn't mention it at the time. But one of the things that the Honourable Mr Haynes, who perhaps is not quite in touch with the taxi world as much as he thinks he is, if you own a £10,000 Mercedes taxi, you are not going to let any Tom, Dick or Harry drive it around for you. In most

instances the second driver that you are considering, who is basically a partner with you in the taxi, is a member of your own family. But should you have your elder nephew driving and for some reason or other he is going away or something and you want to change it to your second nephew, then the idea is that you apply to the Secretary of the Commission and you can get the name changed rapidly. This is something put forward, as my friend the Attorney-General has said, by the Transport Commission itself. It is a purely administrative measure. They consider it was a good thing. They were the ones that suggested this. It is not a question of employing a person at all.

HON A J HAYNES:

Would the Honourable Mover give way?

HON M K FEATHERSTONE:

No, I will not. One of the interesting points that the Opposition has brought up shows their abysmal ignorance or their desire not to stick to the facts as they are, perhaps the Honourable Major Peliza may be excused because he does not know Gibraltar very well, he lives somewhere else. We have provided two quite large car parks in the last year. One at the Romney Hut site and one in the USOC Tennis Courts site and these are not full by any means. They are not full by any means and I am willing to challenge the Honourable Major Peliza to come down there and have a look at it. There are still many people who desire to drive round Secretary's Lane three or four or five times in the hope of finding a parking space almost outside the office they wish to visit, rather than to put it in the USOC Tennis Courts ground and walk up. There is one gentleman, and I have specifically noted it is the same car which does it regularly, parks outside Line Wall School narrowing the street very considerably, causing a danger to traffic and this is the type of person who will possibly get a clamp, the persistent offender, this is the same thing that is done in Britain. They do not just put a clamp on cars just indiscriminately just for the sake of putting a clamp. They watch the area and where they find a persistent offender, then he gets the clamp. Perhaps they do not do it in Edgware Road but I can tell you they jolly well do it in Caxton Street. I have seen it done.

HON MAJOR R J PELIZA:

If the Honourable Member will give way. Isn't that therefore a reflection that the police are not carrying out their duties? And would it be a good idea if the Government, I think the

Minister for Tourism expressed the view that he was not very pleased the way the police were handling the parking outside the air terminal. Would it not be a good idea, therefore, to find out by what number the police could be reduced and have traffic wardens who would come directly under the Government and the Government then could make sure that the traffic regulations were properly adhered to.

HON M K FEATHERSTONE:

That will be kept in mind. As I was saying, we have given the carrot, there are the two car parks there, they are not fully utilised by any means, it is not fair for the Honourable Mr Haynes to say until the multi-storey car park is there, under no circumstances can you give a little bit of the stick. And yet he himself was proposing the stick a year ago, he himself proposed the clamps. When a change of Minister and a change of thought decides on this side to put the clamp, then he says that he is not in favour of it. He wants to have more carrots.

HON A J HAYNES:

Mr Speaker, on a point of order.

MR SPEAKER:

If it is a point of order, I would like you to tell me which is the point of order.

HON A J HAYNES:

I have been misquoted Mr Speaker.

MR SPEAKER:

In which way?

HON A J HAYNES:

In the sense that the Minister has referred to an intervention I made last year, in July 1982, in which he said that I asked for the introduction of immobilisation of cars, clamps. I did that, Mr Speaker, but, with the proviso that a multi-storey car park be built.

MR SPEAKER:

That is not a point of order.

HON M K FEATHERSTONE:

So we did not approach on the question of traffic in a negative sense, we have approached it in a positive sense. The new one-way system around Cathedral Square/Secretary's Lane does necessitate a policeman. Once a week, once a week, when there is a ceremony outside The Convent but under normal circumstances the traffic flow is very free, far improved to what it used to be before you don't get the long queues that you had before. This has been a positive attitude of the Government not a negative one. The number of derelict cars which have been disposed of in the last year is rapidly approaching the 1000 mark so I do not think it is really fair to say cars are left all over the streets and are not removed. When a car starts to show real signs of dereliction, as the Honourable Mr Loddo says, the removal of a headlight, the removal of a wheel, then it is taken away very quickly. But there is the situation that people do go away for a holiday to England or elsewhere for two or three weeks and they leave their car in the street and because Gibraltar is a place where there is a considerable amount of dust in the atmosphere, the car rapidly becomes covered with dust, it looks as though it is derelict but it is far from derelict. The person comes back, cleans his car, drives it off and takes it away again. You cannot be so draconian that when a car is left for 2 days you are going to tow it away and chuck it over the chute but I can assure the Honourable Mr Loddo that as soon as a car has a wheel missing or something like that it is towed away and very quickly because it is part of the policy to make as much space available for parking as can be done. I think it is not exactly fair for the Honourable the Leader of the Opposition to say that the taxis at Four Corners refuse to take any ordinary fares, they only demand tours. I think that it is reasonable for them if they are at Four Corners to offer their wares to the maximum opportunity. If you go into a shop they try and sell you the most expensive item.

HON P J ISOLA:

Will the Honourable Member give way? That is not what I said. What I said was that at Four Corners they only took fares to town and tours and in fact, there is a notice to that effect. And the Minister responsible for traffic, I would have thought he knew about it, obviously he doesn't. I may not be as accurate in the law as he would like me to be but he doesn't seem to be as accurate about his responsibilities as we would like him to be.

HON M K FEATHERSTONE:

Well, I don't know quite, Sir, where else they are going to

take them, that is, to town or to tours, well to town can be Europa Point, if necessary.

HON P J ISOLA:

North Front, Laguna, Glacis, is not town.

HON M K FEATHERSTONE:

I think that if you get into a taxi at Four Corners and you say "Take me to Glacis", since they are going to get exactly the same fee as if they took you to the other end of Main Street, they are not very unhappy about it. They use far less petrol and far less wear and tear on the car. Obviously, they do offer tours because this is part of their stock in trade. Anybody who owns a business obviously offers his wares in the hope that some of them are going to be taken up.

HON P J ISOLA:

Is the Minister suggesting that if somebody wants.....

HON M K FEATHERSTONE:

I am not giving way. I have given way already. You have six or seven bites at each cherry, there is not much cherry left only the stone. So, I think Sir, the situation is not as the Honourable Mr Loddo says, or the Honourable Mr Haynes, that we are not giving the carrot, that we are only approaching the matter in a negative way. What we have to do is to see that we can formulate our traffic system in such a way that it is able to work efficiently and to the benefit of all traffic users not to the few who seem to take all the advantages to the disadvantage of everybody else. The person who has to park his car outside the Anglican Cathedral on the pavement makes a rather pretty area an eyesore, is the person to be deprecated. What we want is a responsible person and what we have to aim is if he is not willing to do it by the carrot, and the carrot has been the car parks we have provided, then perhaps the stick must be the answer.

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 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 abstained:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon W T Scott

The Bill was read a second time.

The Hon the Minister for Public Works moved that the Committee Stage and Third Reading of the Bill should be taken at a later stage in the meeting.

This was agreed to.

THE PUBLIC HEALTH (AMENDMENT) (NO.3) ORDINANCE, 1983

HON M K FEATHERSTONE:

Sir, I beg to move that an Ordinance to further amend the Public Health Ordinance (Chapter 131) 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 beg to move that the Bill be read a second time. Sir, I know the Opposition has the habit of blaming all the faults of Gibraltar on to the Government but I do hope that in the present instance in which we like much of the rest of the Mediterranean have been suffering a very severe drought over the last 3 years or so, are not going to throw the blame on the Government as this unfortunately is something which we cannot control, we cannot make it rain when we wish and the situation this year has been that our sources of supply of water has dwindled away very considerably, I refer specifically to our

importation from Tangier, the authorities there were suffering from the drought themselves, they were restricting water in their own city very considerably and they had to make regulations that the amount of water that could be exported to Gibraltar would be curtailed to a very great extent. At the same time, Sir, because of the lack of rain over last winter and the previous winters, the sub-soil area under the rock contains less water than before and therefore the production from the wells was also limited and perhaps the production has been limited to some extent because Spain is drawing water from the similar aquifer from which we obtain the water and this means that less water is available. Now, Sir, because we have less local water and because it has been the Government policy always to see that Gibraltar as far as possible should not go short of water, it has been necessary to import more water by tanker from the United Kingdom than we had originally envisaged. We have had to bring a third tanker at a very considerable cost. This means that this year three tankers have been brought in and the total cost runs into somewhere around £2 million. It is felt by Government that it is only fair that the users of the water should pay for it. There were two possibilities of meeting this extra cost, either to put a greater deficit on the subsidy through the Consolidated Fund, but this would mean that people who use moderate amounts of water would to some extent be contributing to the persons who use large amounts of water. Or the other method was that everybody should pay the amount of water that they themselves were using. We did pass a surcharge on water to cover the cost of the first tanker some little time ago, the intention of the present Bill is to prolong the surcharge so that we can cover the cost of the other two tankers that we are bringing in. This will necessitate the surcharge at the present figure of 6p per 100 litres lasting until April. It could have been done by increasing the surcharge and making a shorter period but we thought that it would be better to prolong the surcharge and not make the actual cost too much at a time. As I have said before, the surcharge increase to the average consumer will work out to something about £1 to £1.50 per month. I commend the Bill, Sir.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, I would ask the Minister not to attribute motives to the Opposition, that we always blame the Government for everything, although in this case we can possibly do so because

they have always alleged that their Chief Minister prays and it rains and he seems to be failing completely now in that regard as indeed in other things. But, Mr Speaker, please don't give us that last sentence of the Minister. We could go along with everything he has said till he got to the last sentence when he says it is going to put £1.50 per month on the average man on the omnibuses bill. We would like to meet this average man because I certainly have not met him and my colleagues have always remarked and they remarked indeed on what the Minister for Economic Development said in an article about the average cost in Gibraltar on electricity and water. We think that their figures must be based on averages brought about by taking into account a number of people who are dead and who do not consume any water or a number of people who do not live in their flats, I do not know how it is but we certainly cannot accept the average consumption, the average bill payment of people. I am sure there is not a single member in this House who really believes the Minister when he says it will only put £1.50 a month more on the average consumer's bill. But Mr Speaker, we support the Bill, we recognise that water has to be paid for, we do not necessarily agree that there should not be a subsidy from the Consolidated Fund now and then. The Minister is always worried that people should not have to pay for what they do not consume but then, you know, you can look through the public service and particularly in the Honourable Member's department and see the number of things that people pay for and don't get and he doesn't seem to worry about that aspect of it but is happy to blame the public of Gibraltar for being dirty but doesn't look at his department and others who are paying to keep Gibraltar tidy, and keep Gibraltar clean and to enforce the litter laws, that doesn't seem to worry him unduly. But, Mr Speaker, we are not attacking the Government in this instance, we are voting for an unpopular measure because we recognise there is sense in it. If the Government would only bring sensible Bills we would be supporting them all the time.

HON A J CANEPA:

Mr Speaker, obviously Honourable Members opposite do not move around in circles where they meet the average man. I have no doubt probably most of them are used to running up electricity bills of £50, £60, £70 or £80 a month. Perhaps water bills of £25 or £30 a month, perhaps telephone bills of £30 a month. I am aware of many people whose telephone bill even after local metering, runs into single figures. I even know of cases where people find the 120 free units provision adequate. And I am talking of families where there are four or five people living. I move in circles where people's electricity bills are £30 or £40 a month, where their water bills are perhaps £10-£15 a month.

Reasonable consumers who are careful and who don't have money to throw out of the window.. But if you move in the wrong circles if you move amongst the upper middle classes then perhaps people have more money to spend and perhaps they are not so careful. But when we give statistics here in the House, and publicly as I did in my article, they are based on an examination of what we know the bills to be in Gibraltar over a period of time. We have got access to that information and the Economic, Planning and Statistics Unit is able to give us that sort of information. It isn't that you divide necessarily the total number of what the bills come out to by the number of consumers, it is that you examine what people are paying and you arrive at the average by what is the most common, what is the most common, bill and it is surprising how many people insofar as water is concerned, do not go beyond the primary rate which is 45 units at the primary rate, a lot of people don't go beyond that and it is when you go beyond that that it really begins to bite because whereas the primary charge is 19p per unit, the secondary charge is 38p plus the surcharge. That is when one extra unit begins to really bite. I think they should not because they hear of people running up enormous bills, they shouldn't imagine for one moment that that represents the norm because it doesn't.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, two points on clarification. I fully accept that hypothetically an average can be very distorting. I can assure however, the Honourable the Leader of the Opposition that a very recent exercise carried out of water bills confirms that a substantial majority of domestic consumers do not go beyond the 45 units and therefore the distribution pattern, so to speak, of water consumption ties in very neatly with the average figure which the Minister has quoted. And, secondly, Mr Speaker, I would just like to inform the House that in increasing the water charge, the Government has also decided to continue the subsidy to hotels and shipping and will be adjusting the subsidy under the Recurrent Expenditure vote accordingly.

HON A T LODDO:

Mr Speaker, I would just like to make one point. I can assure members of the Government that I do move in circles where the consumption is low, sometimes I wonder if Government is going around in circles but, anyway, Mr Speaker, the point I want to make is that although of course we will be supporting this Bill I am worried that a number of properties in Gibraltar which have underground tanks which are full of water have had this water condemned as unfit for drinking but of course it

could still be fit for washing or for watering plants and it is a shame that these underground tanks are condemned and the water in them cannot be used. Another thing that worries me is that I have heard that in Varyl Begg Estate there appears to be a break down of the brackish water system at weekends. For what reason I do not know but it appears as if the system breaks down with monotonous regularity at weekends and the tenants have to use fresh water for their toilets. This is something where something should be done to stop this not only unnecessary waste of water but expense to the people who live in the area. In my own line of business I meet a lot of people, ordinary people, and I have been told this on a number of occasions. The other thing I would like to ask is, has the law which requires an underground tanker to be part and parcel of any building.....

MR SPEAKER:

That has been repealed.

HON A T LODDO:

It has been repealed. Well, in that case, Mr Speaker, that is answered. But I would ask the Government to see whether these underground tanks which have been condemned, or the water in them has been condemned, that they be made available for washing purposes and watering plants and that. I can think of one particularly huge underground tank, Police Barracks, where I lived for a number of years, where the water has been condemned and no one can draw water from this tank which is a shame because the water could be used, a saving to the people who live there and of course a saving of water for Gibraltar, generally.

HON G T RESTANO:

Mr Speaker, I would just like to ask a couple of questions which I hope the Minister will be able to answer in his winding up and that is what revenue does Government expect to accrue from this surcharge in the six months because obviously I want to know whether the Government expects to be paid what they are paying for the water or whether they are going to make a profit on it or whether there will be an element of subsidy. And, secondly, perhaps the Minister could also let us know what is the daily consumption in Gibraltar of potable water.

MR SPEAKER:

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

HON M K FEATHERSTONE:

I will deal with the Honourable Mr Restano first. I cannot give him the exact figures in pounds what revenue we expect to obtain. I know that a computation was worked out by my Department of the normal amount of money that would be obtained from the actual water imported against the actual cost of water imported and the difference was the shortfall which is being made up by the subsidy. I got the impression that it is a total importation of something like half a million pounds which we would normally have sold for something like £220,000 and the shortfall is being made up by the actual subsidy.

HON G T RESTANO:

Mr Speaker, perhaps the Minister will obtain that information for the Committee Stage.

HON M K FEATHERSTONE:

I will let you know. As regards underground tanks I am sure my Honourable Colleague will take note of it but of course I think most people should know themselves that when they are informed by the Health Authorities that the water is not suitable for drinking they themselves should realise that that water is still reasonably fresh water and can be used for other purposes such as washing floors, washing your car, watering plants etc, so that the onus to some extent is on themselves to use that water wherever they can. The last point I would just mention is rather an aside. Unfortunately, it is not the Public Works Department which has the power to see that the litter laws are enforced, if we did have it I can assure the Honourable Leader of the Opposition many more people would be taken to court. I commend the Bill, Sir.

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

This was agreed to.

MR SPEAKER:

I understand Mr Isola that you wish to make a statement.

HON' P J ISOLA:

Yes, Mr Speaker, I would like to make a statement with your permission on the Traffic Ordinance and express my concern and surprise that the Honourable and Learned the Attorney-General should have pulled me up on the law as indeed, the Minister for Public Works having as they did before them the actual amendment which I didn't have and which I have been seeking. And I am more surprised because the Bill before the House does exactly what I said it was doing because the Bill before the House, Section 2(1) of the Bill before the House, actually repeals the provisions to which the Minister for Public Works was referring and to which the Honourable and Learned the Attorney-General was referring. So I was absolutely correct when I said that they were not putting the agreement into force. All I was asking for is that there should be amendments, well, if they are going to come fine but I think it is wrong, Mr Speaker, and I would ask the Minister to apologise to me for what he said about my capacity or non-capacity as a lawyer and I would like the Honourable and Learned the Attorney-General also to say something because the Bill before the House repeals subsection (1) of section 84(a) which is the section that required the driver to be in alternative employment and I would like an assurance from the Minister and the Honourable and Learned the Attorney-General that it will be put back in the Bill in an amendment. Thank you, Mr Speaker.

HON ATTORNEY-GENERAL:

Mr Speaker, if I may. Before I deal with the substance of what the Honourable and Learned Leader of the Opposition has said, I do not think I made any remark reflecting on his capacity as a lawyer.

MR SPEAKER:

No, I don't think the Honourable Leader of the Opposition has suggested that you have, I think he has suggested that the Minister has.

HON ATTORNEY-GENERAL:

Mr Speaker, when this matter was being debated I did say that in principle a person who was in regular employment could not become an additional driver and my understanding of the position if that is so I did say when we came to committee I would point to the place where this appears, I am surprised to hear that the repeal of subsection (1) is said to eliminate that because that is not my understanding of what the Bill achieves and it is

certainly not the intention of the Bill and I would like the opportunity to look at it.

HON P J ISOLA:

That may not be the intention of the Bill but what I was complaining about precisely was that this Bill made no provision for the driver to be in alternative employment and it doesn't because the only provision there was is repealed.

MR SPEAKER:

We mustn't now discuss the issues of what the Bill does. I think what Mr Isola has said very clearly is that he has been corrected on a point and he has been accused of making a statement which is incorrect. The Honourable the Attorney-General and the Minister have both said that there are provisions in the substantive Ordinance to provide for what he was saying and it so happens that there isn't and he is just saying this by way of clarification.

HON M K FEATHERSTONE:

Well, Sir, I would reiterate that the Honourable the Leader of the Opposition is a very able and clever lawyer and as it appears that this had escaped his knowledge I was astonished at it. If his pride is hurt, well, I apologise to him. I am big enough to do that.

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT)
ORDINANCE, 1983.

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill for an Ordinance to amend the Elderly Persons (Non-Contributory) Pensions Ordinance, 1973 (No.27 of 1973) be read a first time.

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

SECOND READING

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be now read a second time. Sir, the object of this Bill is to raise the

weekly rates of non-contributory elderly persons pensions from £14 to £15 in January, 1984, in line with the increases in other benefits that have been approved through the three motions in my name. As there are close on 850 persons in receipt of this pension, the cost of this increase will be of the order of £44,200 per annum. Insofar as the current financial year is concerned there will be no extra cost for January/March, 1984. Provisions for a similar increase was made in the Approved Estimates.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker we are disappointed as the Minister has not announced that the Government propose that this pension should be paid tax free as indeed the other social insurances and retirement pensions are paid. We have in this House struggled year in year out to redress the injustice of the present situation under which people in receipt of pensions, of the social insurance which is a contributory pension and the retirement pension which is not a contributory pension.

HON A J CANEPA:

It is a contributory pension, the Honourable Member is wrong, he has to be reminded, Mr Speaker.

HON P J ISOLA:

It is not a contributory pension, it is paid for by the Government.

HON A J CANEPA:

A retirement pension is contributory. It is paid out of the Consolidated Fund but there were people that contributed and they were only able to contribute for 5 years because they were too old when the scheme started but they have contributed towards those pensions.

HON P J ISOLA:

Yes, for 5 years out of a lifetime of 50 or 60 years.

HON A J CANEPA:

For five years, if the Honourable Member will give way, because the scheme started in 1955 and these were people who were already 60 years old when the scheme started in 1955.

HON P J ISOLA:

Alright, we are not objecting to it but we are saying that it is wrong that the pension should be received by one set of people tax paid and by the other tax free. I am not going to argue this very much Mr Speaker, because I know that the Government is thoroughly insensitive to the plight of a great number of elderly persons pension, people who receive elderly pensions, not the people who go in Rolls Royce which they always like to bring up, but people who are of very low means - and because our tax system here is so iniquitous and tax is paid at such an early stage and allowances are so low, these people pay tax, and every year the differential grows wider. This is a fact, the differential grows wider because of the tax element for those who pay and the saving of tax in those who don't pay. I can only remind the Government of a number of people who came into the Social Insurance Scheme only a few years ago, paid a couple of hundred pounds and have been receiving £50 a week tax free ever since. That doesn't worry the Government, that is acceptable, but for the elderly persons the great number of whom are paying tax, perhaps not much but are paying tax, the differential is widening every year and the injustice continues. And the Government do nothing about this because it is this side of the House that suggested it and they are prepared to see people continue to suffer as a result because if they amended the law the credit would go to the Democratic Party of British Gibraltar.

MR SPEAKER:

If there are no other contributors I will call on the Minister to reply if he so wishes.

HON MAJOR F J DELLIPIANI:

Mr Speaker, if I had been in Government in 1973, I would have certainly not suggested introducing a pension for people just because they are old. It does not necessarily mean that because you are EPP you are poor or you are in need. You keep mentioning EPP. First of all, if there is anyone in receipt of EPP who is being caused hardship, we have ways and means through supplementary benefits of being able to help them. But let me inform the House that before you are taxed a married couple

must be receiving just over £40 per week, so if there is anybody who gets now £15, he is not paying any tax. So the £15 are tax free virtually unless you are earning far more than £40 to be able to pay tax.

HON F J ISOLA:

Would the Minister give way? Mr Speaker, I am not talking of a person whose only income is an Elderly Persons Pension, of course he doesn't pay, obviously I am not talking of those. It would be terrible if they did but he doesn't because of the income tax system. But a person who is getting £50 a week, for example, which is nothing today, and gets the additional £17 starts paying tax. That is precisely the point we are making, of that number of people, I do not know how many there are, who the fact that they receive an Elderly Persons Pension brings them into the tax range.

HON MAJOR F J DELLIPIANI:

I still insist, Mr Speaker, that I cannot believe that there are people in real hardship who because they won't pay the tax on the EPP it will make that much difference. The Honourable Leader of the Opposition mentioned the ratio growing bigger between the old age pension and the EPP: In fact, this year the percentage increase is more than the old age pension. The old age pension is 5% and the EPP is 7.1%. So in this year, at least, we have become a little bit more equitable. I can only repeat what I have said, Mr Speaker, I do not believe because you are old and you are receiving an EPP it does not necessarily mean that you are being caused hardship. If anybody is being caused hardship let him be means tested. We are quite willing to be given the authority to have a thorough investigation as to whether he has private investments in Jersey and all the rest and then he can be means tested and we will give him supplementary benefits.

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

HON MAJOR F J DELLIPIANI:

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.

THE MEDICAL AND HEALTH (AMENDMENT) ORDINANCE, 1973

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Medical and Health Ordinance 1973 (No.5 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 now read a second time. Mr Speaker, the amendment to the Bill will as the explanatory memorandum states, allow both the Medical Registration Board and the Nurses and Midwives Registration Board to appoint committees and to delegate any of the functions to these committees. The primary reason for moving these amendments is to provide for the appointment of a Nurse Education Committee as a sub-committee of the Nurses and Midwives Registration Board, which will (1) set policies for nurse education both at basic and post basic levels; (2) set policies for the continuing education of qualified nurses; (3) establish a curriculum for nurse training via a curriculum sub committee; and (4) advise on the special needs of the school of nursing in terms of staffing levels, number of tutors and equipment. The eventual objective is of achieving recognition of local qualifications by the General Nursing Council in the United Kingdom. It is envisaged that the composition of the committee will be as follows: The Director of Medical and Health Service, the Administrator of the Medical Department, the Matron of St. Bernards, the Matron of the Royal Naval Hospital, a Senior Nursing Tutor, a Senior Ward Sister, a Hospital Consultant, a Health Centre Doctor, a Senior School Teacher and a Trade Union representative.

MR SPEAKER:

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

HON G T RESTANO:

Mr Speaker, any bill which comes before the House which is intended to improve, and I believe this one is, the overall efficiency in the Medical Department, will always be welcomed

particularly if the Bill is directed at helping Gibraltar nursing staff to obtain the qualifications to which I think they are perfectly entitled.

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

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1983.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance (Chapter 148) and to provide for consequential matters, be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill has several objects, the first of which is to provide for equality between men and women in jury service. That is to say, equality of the right to serve upon a jury and of the obligation to the jury service. I should make it clear that as Gibraltar's law already stands, women are entitled to serve upon a jury. What the law says is that it does not provide for their automatic inclusion on the jury list but it says by way of a proviso that they may volunteer for jury service, and if they volunteer they would be in the same position as men. But this Bill adopts the further principle of saying that all persons whether they be men or women are entitled and are obliged to serve on a jury. In other words, they have the same responsibility, that is the real thrust of this provision. And this, Mr Speaker, will bring the law of Gibraltar into line with United Kingdom law in this respect and also I think the law of many other countries today. It is recognised, of course, that women in practical terms are often in a different position to men in that they have family commitments and that if they have family commitments, especially if

they have a young family, that there are times when it will be difficult for women to serve on juries and, accordingly, there is a provision in the Bill which will enable the Registrar of the Supreme Court who is responsible for compiling jury lists, to excuse a woman from jury service if she applies to him and if she has family commitments or indeed any other commitment of a substantial nature that will warrant her excusal. The Bill differs slightly from the United Kingdom provision in that so far as the excusing of jurors from service is concerned, the United Kingdom provision does not specifically mention family commitments but the Gibraltar provisions will do so and in that sense they will highlight that this is one of the basis on which they can be excused from jury service. That should, Mr Speaker, achieve the practical need to recognise that women do have these commitments but to express it in such a way as to preserve the principle of equality of rights and the responsibilities.

MR SPEAKER:

May I ask by way of clarification, you said that a woman can apply, I think that any person will be able to apply, is that right?

HON ATTORNEY-GENERAL:

Yes, indeed, Mr Speaker. In fact, if I may take your question as an example that really underlines the point I am making that the principle is expressed without formal regard to sex, either a man or a woman could apply. But in fact, in practical terms, it would offer a way for housewives and other women with family commitments to seek release from jury service. But I think there will be a subtle difference in the result, apart from the importance of the principle involved. I think there will be a subtle difference in the result in that where a woman has to volunteer to go on to a jury list there may be a number of women who are interested in doing so, that human nature being what it is I think anybody who has to volunteer where you have a system where someone has to volunteer there will always be some people who never quite find the time to volunteer but the shift that this Bill adopts will put everybody in automatically and then the onus will be on the person to obtain excusal. I don't see any element of compulsion in that but I think the practical consequence will be that there will be more women who are on juries who don't particularly want to obtain excusal from jury service. I think that is the way it will work.

MR SPEAKER:

May I perhaps interrupt you because I want to be clear minded on this one. The application will be to be excused on a particular instance and not generally.

HON ATTORNEY-GENERAL:

Yes, it will not be a blanket excusal from jury service. Mr Speaker, if I may, I will just check that one but my recollection is that it will be an excusal ad hoc, as it were.

MR SPEAKER:

I think that it is Clause 5, isn't it?

HON ATTORNEY-GENERAL:

It is an entitlement to be excused on the occasion I feel myself that in practical terms it will result in more women's names being on the jury list than under the present system where they must volunteer to do so. The other practical consequence of course will be that the size of the jury list will be expanded. It has already been expanded quite substantially, I think it now stands at something like 5,000 names. I would not imagine that it would be expanded by twice as many, I don't think it would rise to 10,000 people, but I think one can expect to see quite a substantial increase in the jury list if this goes through and that of course would lead to an even broader base from which to select the names of jurors. Mr Speaker, I should make it clear that this particular part of this Bill is not a matter of Government policy as the Chief Minister will be saying. On this particular Clause of this Bill members on the Government side will be exercising a free vote. The second major provision it is a short provision as such but quite an important provision in the Bill, is to abolish the concept of a special jury. Under the present law, we have two kinds of juries in Supreme Court trials, either civil or criminal, we have ordinary juries, commonly known as common juries and we have special juries. An ordinary jury consists of 9 persons for an ordinary criminal trial, 12 persons in the case of a murder trial. Special juries are the same in numbers but they are specially selected and the qualification for a special juror is expressed in terms of a property holding and I think at the time that property holding was introduced it was probably quite a substantial requirement. Today, with the effect of inflation, the property holding is really I think a much more nominal matter but nevertheless that is the qualification for being a special juror. The normal rule, of course, is that all matters that require a jury trial are

tried by ordinary or common jury but there is provision whereby on the application of either side or of its own instance, the trial judge can say that a special jury will deal with the case. This is a very rare, it is correct to say, occurrence. It has happened in at least one civil case that I am aware of in Gibraltar in recent years. I am not aware of any criminal trial on which this has happened and I personally may say that I am not in favour. I myself would not consider seeking a special jury for a criminal trial for reasons which I will come to. The position in the UK is that the special jury has been abolished and the proposal relating to special juries in this Bill is to abolish them here to follow the United Kingdom and that is a proposal which was initiated in the Law Revision Committee and has been adopted by the Government. I think the arguments for retaining special juries are based on the concept that there will be occasions when because of various considerations such as pressure of some sort of familiarity with the parties involved it would be desirable to appoint a special jury to deal with a matter. I am sure those in favour of special juries can argue that more persuasively. I myself do not subscribe to this view. The reason why I am advocating that special juries be abolished is that I think it is the basic principle of our system of justice that people are entitled to be tried either on a civil case or in a criminal case by their peers, as it were, by an ordinary or common jury of 9 people or 12 people as the case may be and this is the rationale behind this Bill. There are two other provisions that I should mention in the Bill. Mr Speaker, one is that there is a special provision being made for excusal from jury service on the grounds of religious conviction, in other words, on the grounds that the person who is seeking excusal finds it contrary to his religious beliefs has been called upon to judge somebody and so a provision is being put on this Bill enabling indeed requiring the Registrar of the Supreme Court to excuse a person from jury service in this situation where he is satisfied that the person genuinely holds that belief. Let me be quite clear on that it is for the Registrar to decide does this person genuinely believe that it is a matter of religious conviction, that is a matter for his judgement. If the answer to that is yes then he must excuse the person from jury service. And, finally, the Bill as presented to the House contains provisions for a four-year revision of the jury list. With the increase in the jury list to I think about 5,000 people it has become a very major job to keep it under review and accordingly it is felt that it is possible to do an adequate job of revision every four years and the effect of the provision dealing with the revision of the list is to enable it to be done every four years. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, I had not intended to speak at this stage, I would have done so later on if the Chief Minister had been here, but in the absence of the Chief Minister perhaps it is incumbent on me to elaborate and to explain why it is that on the Government side we are having a free vote on the provisions in the Bill that provide for women to be required to undertake jury service. I think that they are clauses up to clause 6, I think, and including clause 6. The reason is, Mr Speaker, that that measure has not emanated from the Government, it has come from the Law Revision Committee, it is not a Government measure in that sense and there are divergent views among the Government on that particular point. So we decided, since it was not a measure that was being initiated by the Government, that we should have a free vote on the matter. I am glad that the Attorney-General himself did not describe the Bill this morning as a progressive measure as it has been described elsewhere, as a progressive measure no doubt, in that it - and I quote from the explanatory memorandum - in that it confers on women the same rights and duties as men in respect of jury service. I don't agree with this view. I think that the struggle over many decades in this century to promote the equality of the sexes has been about conferring on women the same rights as men have, not duties. Women were previously downtrodden second class citizens and it is only I think by an inverted sense of what progress is all about and what equality of the sexes is all about that it can be said that we are promoting that objective by requiring women to undertake jury service. If I may borrow an analogy from social security, I think we wouldn't be promoting genuine equality, genuine progressive equality in the field of social security if we were to increase pensionable age for women, the age of eligibility to an old age pension, if we were to increase it from 60 to 65 for everybody because we cannot afford to lower it from 65 to 60 for men or if we were to introduce a new common age of eligibility, say, up to 63 for everybody, I don't think that would be real progress, I think that that would be a step backward. Because we are not able to do that I think it would be a step in the wrong direction to move in that way. I am against this measure because all that we are doing is putting an extra duty or burden on women by requiring them by law to have to perform jury service unless they are excused and those who wish to be excused have to go through the laborious process

of convincing the Registrar of the Supreme Court that they should so be excused. The present situation allows women to serve on a jury if they so wish, they are not debarred by law. I think that that would be discriminatory to debar them from serving on a jury. But what is wrong with the present setup whereby women those who feel strongly about it, those who wish to do so, can volunteer for jury service? I don't see anything wrong with that. I think it is only perhaps a group of people who are motivated by little more than a desire to impose burdens and duties on women because they still continue to clamper for greater equality with men that this measure is coming about. I will be voting against all the provisions in the Bill that provide for women to do jury service and I might even, Mr Speaker, exercise the rare opportunity if I am so minded that way later on, I might even vote against the Long Title.

HON P J ISOLA:

I agree with the Minister for Economic Development, I am against abortion, divorce and women serving on juries. Mr Speaker, when we were discussing this matter among ourselves, my Honourable Colleague, Mr Haynes, described me as out of date and old fashioned when I started complaining at the thought that my wife would be doing jury service I wouldn't get my lunch, I wouldn't have my clothes ironed and things like that and at the thought of being dragooned into a situation where women have to serve where in my view the vast majority of women have no desire and no wish to be accorded this privilege. But my Honourable and Learned Colleague with convincing arguments, more or less, with the other colleagues in the House we thought that if we had to take a view we would have to be consistent about it but I am delighted to hear about the Government having a free vote on this issue because I think my colleagues will agree with me that we ought to follow suit and have a free vote on the matter of women serving on juries. Mr Speaker, quite apart from the fact that equality of rights, the principle of equality of rights and the equality of opportunity, there is really no good reason why women should be forced to undertake jury service when in my experience I find a great number of men who continuously try to evade that service and I personally see no need to bring women into jury service in Gibraltar especially as we have a panel of five thousand jurors which, Mr Speaker, is far too large and I am against the provision of a review of the jury list every four years. I don't see why it got to that amount because the jury list is part of the democratic way that things are run, that a jury list is published once every year or every two years and people who find themselves in that jury list are able to go to the Magistrates Court or to the jury session and say that they should be excused from jury service. Last year I believe a number of QC's found themselves in the jury list the

Honourable and Learned the Attorney-General will be surprised to hear I reckon the jury list was enlarged, the Register of Electors was obtained and 5,000 were picked out from it and that, Mr Speaker, is a terrible basis for composing a jury list. Juries have a very responsible duty to the public and to perform. You cannot just get everybody and put them in a panel and bring them in to try cases, you can have disastrous consequences, Mr Speaker, and I think a lot of people in Gibraltar are worried about the jury system and its effectiveness. I think a lot of it arises from the way jurors are selected for inclusion in the jury list and I think the Honourable and Learned Attorney-General and the Law Revision Committee and everybody else who is concerned about this matter, should have a cold hard look at how jurors are selected, how people are selected for jury service. I think there should be a certain amount of investigation done in the centre. Can they speak English, do they understand English? I mean things like that, basic things. I have appeared in Court to get somebody excused from jury service because he did not understand English and that must be available, Mr Speaker. Mr Speaker, special juries, the abolition of. I agree with the Honourable and Learned Attorney-General that it is a long time since a special jury has been used for a criminal trial and I don't think it is appropriate in a criminal trial to have a special jury empanelled. But I think that with a jury list of 5,000 indiscriminately selected, there is something to be said for preserving the right of people in civil cases who want a special jury to have one empanelled. In fact, there are less and less civil cases with juries but certainly in my experience I have not done a single civil case that hasn't had a special jury it it has been tried with a jury. I think there is something to be said for keeping special juries and empanelling them in civil cases because if the jury list is going to be picked indiscriminately I think if people want to have a special jury in what is essentially a civil dispute they ought to have that opportunity. Mr Speaker, one is concerned, we are concerned with the way the jury system is working in Gibraltar and we think a hard look should be taken as to how juries are empanelled. I don't think there is a need to have 5,000 jurors on a jury list. If you have, Mr Speaker, 20 criminal trials in one year if you have 20 criminal trials with a jury or 40 criminal trials with a jury at 10, roughly, per jury I don't know how many it is, it is 9 I think, well call it 10, that is 400 people required for jury service. You do not need 5,000 to be empanelled to do that and you are not going to put another 4,000 are you, Mr Speaker? A panel with 9,000 people when you only need 400. What I think there is a need to look at, Mr Speaker, is the system under which jurors can be challenged by the prosecution and by the defence without cause. I think at the moment a defence lawyer can challenge or a defendant can challenge 8 jurors. Well if you have got a case like Operation Jam where

you had I don't know how many defendants, 12, well, they between them could challenge 96 and I believe the Crown can challenge as many as they like. I may not be right, I don't know. But what one ought to think about is trying to streamline the jury system, try to get a jury list that is compact and effective, possibly putting some constraints on the rights of challenge, reducing it for example from 8 or 4 or 5 and then any further challenging should be by cause. That is the sort of thing because the question of juries, Mr Speaker, is in order to serve a function in society, not to give people rights and privileges, it is to try and make the system work of trial by jury. So, Mr Speaker, in my view as the law provides for women to be able to apply to serve on juries, I understand there hasn't been a rush, I think the number of women who have applied to serve on a jury can be numbered on one hand and of those I believe they very rarely get selected they get challenged. What is the rush and what is the anxiety to put 5,000 or 4,000 women onto the jury list if they have no desire to serve? If, on the other hand, the House comes to the view that women should go on the jury panel, then I would suggest that there should be an amendment to the law under which any woman who wishes to be excluded can apply to be excluded because you don't need 5,000 people on a jury or 9,000 people on a panel so if you want to bring the women in if you want to give them the same rights and the same duties and so forth, well, let us be democratic and give it to them but then let us have a provision under which anybody who wants to be excused can be excused. She doesn't have to prove that she has got 3 children or one going to school, that she has got to feed them and all this business, let them be excused. I myself, Mr Speaker, see no need to have women on juries in Gibraltar. I agree that if they want to serve they should have the right to serve and that is already in the law. So if this is a free vote and my colleagues before we take the vote agree that it should be a free vote, I will vote against.

MR SPEAKER:

Are there any other contributors to the debate on the general principles and merits of the Bill?

HON MAJOR R J PELIZA:

I knew, Mr Speaker, that something was wrong with the Government when the Deputy stood up to speak on this Bill and the Chief Minister was not here. There obviously must have been some conflict because I cannot understand the Government bringing a measure like this which I think is an important measure to do with very serious principles of rights in Gibraltar, not to have given it itself the weight it deserves and come to one final decision, one way or the other. After all, they are governing

and they are almost shirking their responsibility and passing it to the House. I was very surprised to see that they came in on this measure with a free vote. I see nothing here that requires such an attitude, it is a matter of tremendous importance as to how we feel about women in Gibraltar and I would have thought they would have come out with some definite government policy giving the lead but of course this Government never gives the lead on anything and they haven't done it on this either.

HON A J CANEPA:

The Bill might not have been here, it might not have come to the House at all. If it had come to the crunch of the Government being required to take a view it might not have come here because there might well have been a majority of Members of the Government against the measure.

HON MAJOR R J PELIZA:

And that, I think, should have been the proper situation, in my view, because the Government is there to govern, to make up their mind. If they cannot they shouldn't be there. Anyway, since the Bill is here, I think it is worth expressing a view. I believe that this is a move in the right direction in involving the women of Gibraltar much more in the political life of our society which I am sorry to say at the moment is not very visible and it is a pity that this is not so because the women have a great contribution to make the political life of any society and this is the way of getting them involved by participating in any activity in which the rights of the citizens are involved. I would go with the premise that the woman should be entitled automatically to form part of the panel of juries in Gibraltar. But at the same time, bearing in mind that they have duties that men don't have, for example, children and so on, provision should be made in the law and this could be a simple amendment to this Bill, in which their right to opt out could easily be obtained and what I would suggest to the Government is to arrive at a compromise in which automatically all women would be entitled to participate as jurors and at the same time if they wished to opt out they could easily do so. By doing so, particularly where it applies to married women, I think perhaps it should be different in the case of single women because if there is going to be equality - and I believe in equality - it carries responsibilities and duties and I think we shall be failing if we give the responsibilities and the rights and then don't make them conscious of the duties as well. We have got to look at the special circumstances of the women as mothers, housewives and make

provision for them to opt out. Perhaps this did not apply to single women but certainly it should apply to married women. I think it would be a step in the right direction.

HON A T LODDO:

Mr Speaker, I think that this is a progressive step. Women are every bit as important to the community as men. There is no difference between the sexes and I am sure that a lot of people who object to women being jurors have the same objection when Emily Pankhurst wanted the vote for women. I think it is right that women should be jurors. There is provision in the law for them to get exemption but I think they are as much a member of the community as anybody and they should do jury service. I don't believe that anybody wants to do jury service. I don't think anybody looks forward to it but it is just one more duty that in our democratic society is expected of us. So, Mr Speaker, as this is a free vote, I will be voting in favour.

HON M K FEATHERSTONE:

Mr Speaker, the position, as I see it, is that at the moment women may opt in and the law wants to put them in perforce and let them opt out. I cannot see that basically we are going to gain very much by changing the present situation and I am going to be very brief. I am going to say that I would leave the situation as it is at the moment, those women who wish to serve on the jury may obviously do so and they are very welcome indeed, but I don't think it is necessary at this stage in our political life to force most women to become jurors and then to force them into the situation which they have got to opt out. I shall vote against the Bill.

HON A J HAYNES:

I am not sure what the Honourable the Minister for Public Works means by "this stage in our political life". No doubt that enigma will go down in history. The question Mr Speaker, is one which has now been raised into one of our some substance. I had assumed that it was going to receive the full support of Government and I was as surprised as my colleague the Honourable Major to find that there is some doubt from the Government benches. I am also concerned at the view taken by the Honourable Minister for Economic Development who has classified himself as the sole arbiter of social justice. It is he who decides what is good and what is socially justice, it is absurd and his reasoning, Mr Speaker, does not bear consideration there. He is, the protector of downtrodden people and he classifies women

as the downtrodden. We can only give them the nice side of life, we can give them the rights but not the duties. And that patronising tone, Mr Speaker, is in my view intolerable. Most rights such as the vote also include a duty. Mr Speaker, I don't think I need to remind the members of this House that to vote is not just a matter of going on a hunch, the duty is there, the electorate chose a government, Mr Speaker, that itself is a duty apart from being a right. In this case, Mr Speaker, we are talking of a duty which is part also of the Constitution and I think it runs in tandem with the right to vote. The right to vote is one basis of our democratic Government which is the election of an executive but the right also contains a duty. As regards women jurors, Mr Speaker, the system of law and order in Gibraltar, the system of justice as devised by the common law in English Statutes has resulted in a jury service for criminal matters and in some cases for civil matters. Apart from being one of the mainstays of justice and serves to give a fair trial, one hopes, to the defendant, it also serves, Mr Speaker, as a lesson for those who actively take part as jurors. The jurors learn from their experience, they see the law in action, Mr Speaker, and that is an important function and the more people who go to Court and see how the law operates, see that justice is done, the more converts we hope to obtain to our system of Government, Mr Speaker. It is therefore in my view a clear matter that women should be incorporated into this and I note that though the Attorney-General had provided for women to be allowed to opt out quite easily in the event that they are unable to do jury service because of their marital or housewife commitments, I would note, Mr Speaker, that the courts as regards men do not have that kind of slack approach. The law in fact as regards jury service is extremely severe. You are summoned to the jury service and if you fail to appear be it on your own head. And if you are self-employed you run your own business and you are required to do jury service, you do jury service, too bad that you have a business to run. It is too bad that you lose money for that time. That is how serious the matter is taken, Mr Speaker. In this case, however, we are making very liberal, if I may say so, allowances for women and yet there seems to be nevertheless resistance to the participation of women. It is also, Mr Speaker, apart from the fact as I say that it is a right and a duty which I think women should be involved in, there is also the question, Mr Speaker, of one would hope understanding and appreciation of our system of justice which will be supported and strengthened by having women in juries. It will also, Mr Speaker, I think be a cost saving device in that it will allow the men in the community who are relieved from jury service by having women doing their work to carry on with their normal work. That, Mr Speaker, is a minor consideration but is one which should be borne in mind. The

only reservation I have as regards women serving in the jury, Mr Speaker, relates to command of English but this, of course, is not exclusive to women, it is as much true of potential male jurors as it is of woman jurors and I think that there we have perhaps by way of regulation to require the Registrar to interview potential jurors to satisfy himself that they are persons who will understand the proceedings in the court and that I think is the only requirement. If a person can understand what is being said in court, is not simple in mind and he has a command of English, then he should be required to do jury service if empanelled by the Registrar. I reject therefore, Mr Speaker, the patronising efforts of those who would rather that women were not in the jury service. I support the Bill.

HON MAJOR F J DELLIPANI:

Mr Speaker, I do not want to be accused of being patronising towards women or being termed a chauvinist pig but when we introduced the law there we more or less said that if women wanted to opt in they could do so there wasn't a mad rush of females putting down their names for jury service. To me the law as it stands now is a privilege which women enjoy and women in this society still enjoy very few privileges and I am very happy that they enjoy that privilege and I will vote against the change in the law because I want women to continue to have that privilege that we men haven't got.

HON ATTORNEY-GENERAL:

With your leave Mr Speaker, I would like to clear up a point before the lunch recess. Coming back again to the question of the Traffic Ordinance, you may prefer me to leave it for the Committee Stage.

MR SPEAKER:

If you want to clarify something you can do so.

HON ATTORNEY-GENERAL:

I would simply say that it does appear to me that the requirements that you must not be in regular employment still applies. It appears to me to be so because it is contained in section 64(a)(2) of the Traffic Ordinance which is not being affected by this Bill. I just cannot help wondering whether all the amendments are available to all the members because there have

been a number of amendments to this part of this Ordinance. What I propose to do, Mr Speaker, is to have a print out of the Statute law as it now stands made available for members and perhaps that will clarify matters.

The House recessed at 1.00 pm.

The House resumed at 3.20 pm.

MR SPEAKER:

I will remind the House that we are on the second reading of the Supreme Court (Amendment) Ordinance, 1983.

HON J B PEREZ:

Mr Speaker, in speaking on this particular Bill I want to do my utmost and I am going to try and make a very sincere attempt to try and convince those members who have already spoken and who have already made up their minds, to in fact speak against the proposals contained in the Bill, to change their minds and to at least if they do not agree with me 100% to at least consider abstaining on the particular vote. The first point that I would like to make, Mr Speaker, in my contribution is that I honestly feel that in my seven years as a member of this House of Assembly I have never seen a particular issue come before this House in which members who have spoken have considered the matter so subjectively and so selfishly and so wrong and I think that I will make a point as soon as this House of Assembly finishes to in fact put it across to the Committee which looks after the declaration of members' interest to make sure that one of the interests that members of this House will have to declare on the main point will be that we are all males because I think this has been the predominant factor in the contributions of members who have spoken against the proposals contained in this Bill. The Bill, Mr Speaker, is one of fundamental importance and it surrounds a fundamental issue in connection with our laws of Gibraltar, with our judiciary, and I do not honestly believe that members in this House have given the Bill enough thought after listening to the contributions. What the Bill really proposes to do is to put men and women on an equal footing. I think the Bill seeks to do away with the discriminatory nature in which we apply the question of juries. We must not forget, Mr Speaker, that in Gibraltar 50% of the population and over is in fact composed of females. But this Bill does not only affect 50% or over of our population, I think the Bill affects all of us, it affects the whole of the population of Gibraltar. In page 4 of the Census of Gibraltar which has recently been published

members will see, Mr Speaker, the female population which is in fact of British Gibraltarians, the female population is 10,435 whilst the male is 9,390 so therefore you have in fact a majority of females. The proposals, Mr Speaker, I welcome wholeheartedly and I honestly feel that it was in fact about time that we bring these proposals to the House. I think it is something that we ought to have tackled before but maybe through lack of time or lack of interest we have not got down to it but, anyway, it is something that I think is long overdue in Gibraltar.

HON A J CANEPA:

If the Honourable Member will give way. I was surprised, Mr Speaker, he never brought the matter to Council of Ministers that he waited for the Law Revision Committee to do it.

HON J B PEREZ:

Well, I am perhaps to blame myself, Mr Speaker, in not having raised it but nevertheless the fact remains that the matter is now before the House and it is a matter which I honestly feel that members have not realised the fundamental importance behind the main principles of the Bill. Mr Speaker, I think it is important if one considers the system of justice that we have in Gibraltar, that is really based on two or three main fundamental principles, the first one being that we are all equal before the law, irrespective of whether we are male or whether we are female and irrespective of nationality, the law should apply equally to everybody. That is one of the fundamental principles. The second fundamental principle in our system of justice, Mr Speaker, and let me say that it is a system of justice that has many misgivings and many shortcomings but nevertheless it is a system which on the whole we can all be proud of because there is no better system than the one we have with all its faults. The second principle, the first one being that we are all equal before the law, is the one in which we are innocent until we are proved guilty, and as a corollary to that what we are saying is that we have a right to be tried, as the Honourable and Learned Attorney-General put it, by our peers. Mr Speaker, I think we would do better in considering this particular issue by saying let us forget about the word peers and let us substitute the word equals, because I think this is really what peers means, that we have a right to be tried by people like ourselves, our equals. Let us put it this way, in practice, because I will later deal with the fact that women are allowed to register which has been put forward as an argument against passing this particular Bill. In practice, what it really means is that a male defendant is

told: "You have a right to be tried by males", because that in practice what happens, because it is never tried by females or very seldom or very rarely. In fact, I think that in the history of Gibraltar there have only been 2 women who have actually served in our juries, only two, so in practice what we are telling a male defendant is "You have a right to be tried by your equal, but not by females; you have a right to be tried by men". And similarly in the case of a woman defendant, we tell the woman defendant "You have a right to be tried by your equals, yes, but your equals are not women, they cannot be women, you have to be tried by men". And I am saying, Mr Speaker, in practice I will now deal with the point that has been raised whether women have registered or have shown an interest or not. But the fact of the matter, the reality of the situation, and I can say that I am speaking from some experience by being a legal practitioner in Gibraltar, that is a fact of life. Women defendants are told you are tried by men, fullstop, because they are not tried by women. I challenge Members who have spoken against this Bill to consider the reverse of that situation. How would the Honourable Mr Isola or my Honourable Friend Mr Canepa like to be told, if he were, God forbid, but if he were to find himself in a court of law as a defendant, or maybe a civil matter or a criminal matter, if were to be told: "The fundamental right is that you are to be tried by your equals" and he finds himself in a court of law which is entirely composed of females. How would he react to that, if the entire composition of the jury who is to try him are all females and the judge is a female. How would he like that, Mr Speaker? And that, Mr Speaker, is the reality of today's system whether we like it or not. Let me deal with this business of the rights to register, and we have been told by some Members, Mr Speaker, that women have not shown any interest. There you are, the law was changed I think it was 6 or 7 years ago, and how many women have signed on? How many women have bothered to register? Mr Speaker, I have no hesitation whatsoever in rejecting that argument for voting against. But I am going to take it further because I am going to give the reasons for rejecting that entirely. I challenge Members of this House to start the system afresh. Put the onus on the male, put the onus on the male as we have done for females and tell the male population, "You have a right to go to the jury, you have a right, if you go to the court, the Registry, and you put your name down". I will guarantee you, Mr Speaker, and Members of this House that the number of males who will bother to go and register will be exactly the same as the number of women. And let us be under no illusions about that, that is the reality of the situation and I think it is unfair, it is totally unfair and inequitable in what we have done or what this House of Assembly has done for many years with the female population of Gibraltar as far as jury service is concerned. I think it is totally wrong and

and I again repeat that it is about time we put this matter on its proper footing. Let no Member of this House give the lack of interest by the females of Gibraltar as a ground for saying "No, we will not treat them on the same basis as men". Again I say Mr Speaker, to me that is a very very poor excuse. What are the other reasons that have been put forward by Members who intend to vote against this particular Bill? I think this really brings me to the point of what is the role of a woman in our society. I think we can't get away from that. And what really saddens me, Mr Speaker, is to see, and I am very sorry to say this, the sheer hypocrisy, the sheer hypocrisy which I have seen this morning in this House because I honestly feel that Members have not had, and I use the word on purpose, not had the guts to say, well, the courage, Members have not had the courage to really say why they do not consider that women should be treated on the same footing as men for jury service. They haven't had the courage, Mr Speaker. The reasons, I think, have come out to me quite clearly. The first one being, I think, that some Members seem to be of the opinion that the woman's role in society is merely to look after the home and the children. I must say that I do not share that view, Mr Speaker, and I am glad that Mr Isola said hear, hear, because I intended to quote him on what he had said this morning. Although he laughed about it, he said it jokingly, but nevertheless he said it. I suppose it is in the same way in which my Honourable Colleague, Mr Featherstone, yesterday referred to Gibraltarians as dirty, in the same manner. But yesterday, Mr Speaker, Mr Isola took the point very seriously in the same way as I take the point that he made this morning when he said: "What is going to happen when I go home and I have not got my lunch ready?" I think that is a ridiculous point to put forward. I think Mr Isola is totally wrong and if that is his view as may well be the view of my Honourable Colleague, Mr Adolfo Canepa.

HON A J CANEPA:

If the Honourable Member will give way.

HON J B PEREZ:

Oh, no, I will not give way. If that was the view of Mr Isola and perhaps it is shared by my colleague, Mr Canepa, then I think they should come out clearly with it and say so, and say "I am not voting in favour of this Bill because I think a woman's role is within the home and with the children and nothing to do with juries". Let them say so, but they do not, Mr Speaker, and this is why I think that it saddens me to have heard those contributions which have been made this morning. What is the

other point that they have made? Perhaps it is a question of intelligence, that they do not consider women to be on the same footing on an intelligence basis as men. That I think is again wrong, Mr Speaker. I said quite clearly Mr Speaker, that he never said the question of intelligence but Mr Isola nevertheless gave the example of a man, himself, having to go home and not having the lunch ready because his wife would be serving in the jury. The impression that I have got, my own assumption, my own impression from Members who intend to speak against these particular proposals can only be on two grounds. One, the question of women's role in our society, and two, the question of intelligence. There are no other possible reasons for voting against the Bill as I see it. The argument put forward on the law and women not being interested in registering, I think I have cleared that point quite clearly, that is nonsense. If men had been told: "Look, if you want to serve in a jury you have to register", the number of people registering would be the same as the number of women. I think that is quite clear. The reasons can only be therefore, the women's role in society and women's intelligence, as I see it and I reject that entirely. Let us consider the number of women that are in fact in full time employment in Gibraltar and that is contained in page 12 of the census, and the number of females, and I am only referring to British Gibraltarians, in 1970, and total number of males 5647. Let us consider that today there are quite a number of women in our police force, there are members in our judiciary, there are females in customs and there are quite a number of female JP's in Gibraltar. I honestly, Mr Speaker, don't see how Members can draw a distinction between having female Justices of the Peace in which not only are they judges of the facts but they also act as judges of the law and say that women should not be treated on the same footing as men for the purpose of jury service. I just don't see any valid distinction. I do take the point, and one must be honest about the matter, that I think the incidence of women having valid excuses or valid reasons for being exempted will be higher, the incidence of women will naturally be higher than men, I agree.

HON P J ISOLA:

Will the Honourable Member give way.

HON J B PEREZ:

No, I will not give way. I agree that the incidence would be much higher but let us consider the exemption which is contained in the Bill and I welcome that exemption on two grounds. One, because I think the fundamental principle must be that men and women must be treated on an equal footing, I accept that

entirely, but I also welcome that because it will help women who have certain reasons for not being able to attend to be excused and more important than that, it does correct the present system which fails to allow certain males to be exempted from jury service for reasons like the fact that you may have an accountant, who is self employed, who has a staff of 5 or 6 people, how can that man have served on a jury in the recent case known as JAM, how could he have served for 6 months and what would he have done in his office. That is a clearcut case in which that particular individual, and I have taken an accountant as an example, that man would have been entitled to present that as a reasonable excuse. I think the exemption is obviously welcomed on its own, that is as far as males are concerned. On the whole, Mr Speaker, I look at this matter as a point of a fundamental principle and that is do we treat women on the same basis as men for jury service. I think the only answer one can give is yes because to me there are no valid reasons, or I haven't heard any valid reasons to say no to that or to abstain. Mr Speaker, I have no hesitation whatsoever in voting in favour of this particular Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I don't think I should comment on the merits of this particular Bill although I cannot help pondering about the likely financial implications if it were to be put into effect but that is irrelevant. The position of the Financial and Development Secretary, I understand, on a free vote, normally, is to abstain. I intend to abstain particularly since I get the impression that the votes will be very close and I think I would be improper if the balance were to be carried on the basis of a vote of an ex-officio Member.

MR SPEAKER:

What are the financial implications?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have not made any study of it Mr Speaker, but I assume that the process which will be initiated whereby people will have to write and make submissions to the Registrar, paperwork, more files, more answers backwards and forwards. It is fairly common for requests for additional staff to be made once the issue of beaurucracy takes over. I am not saying that it will happen but it is something which one has to bear in mind.

HON A J HAYNES:

Will you also not consider the effect of having civil servants remaining in their jobs rather than being required for jury service because their potential requirements.....

MR SPEAKER:

No, no, that is not something that the Honourable the Financial and Development Secretary can express an opinion on. That is a political issue.

HON A J HAYNES:

Surely, Mr Speaker, it can be tied up in the pros and cons. If one assumes that 50% of jurors in the future will be women, that is 50% of whatever the working hours required of our male population which is being saved.

MR SPEAKER:

Yes, but it is not for the Financial and Development Secretary to comment.

HON A J HAYNES:

Well, if the Financial and Development Secretary knows how many man working hours are lost to the civil service in a year on average as a result of jury service, there would be a saving in that area alone.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I was only referring to the financial implications for the Government, I was not referring to an economic assessment overall but I would make the point and I think I am correct in saying that in the majority of cases I think civil servants are challenged in juries so I think the point may not arise with the significance the Member is making.

HON A J HAYNES:

That is incorrect, Mr Speaker.

MR SPEAKER:

Are there any other contributors?

HON H J ZAMMITT:

I am afraid that the intervention of my colleague Mr Brian Perez, who assured me that I would be convinced before he spoke has not convinced me. I will say why, Mr Speaker, because I think it works exactly the opposite, entirely the opposite of what he is saying. In fact, what we males are doing here is if anything helping the females not to get entangled in what males would love us to do and bring them out of the entanglement we have put them into. Therefore it is not that we are degrading them in any way or trying to keep them down. It has been said and we all know that they have the right to apply to be a member of the jury but to say that they should be treated on the same footing as men would in fact be imposing upon them a legal requirement which they have not got today by statute. And to make those poor women and the Registrar, and I am very glad that the Financial and Development Secretary has put the problem of possible financial consequences, may not be so today or tomorrow but I think, I have been long enough in Government to accept that in a few years time it will be too much work in having to sift through all the excuses justifiably so, by women. It is going to be quite a burden and quite honestly I think that there are women with particular esprit de corps and they are very entitled to apply. I am sure as the Honourable Mr Brian Perez has mentioned, they render a very valuable service in the legal profession, as Justices of the Peace and in other spheres but I do not think that we should try and invert the improper fraction by saying that we should bring them to be our equals, I think that they are better off than we are. Therefore, if anybody is being discriminated upon it is the males. The women that want to come in can come in if they so opt to but to bring them all in and then have 99% exempted quite honestly to me is an absolute superfluous piece of legislation and a waste of time to themselves and to the court in having to release them. Mr Speaker, we know very well that in a small community such as ours jury service in particular is not the most welcome service. We know that it is rare indeed for a member of the jury not to have some knowledge of the background of the accused including even previous convictions. It is difficult and already there is fear in respect of a particular case of who will be selected to that jury. I would like to ask Honourable Members here if males, with supposedly more courage than the weaker sex are already trying to find ways out from serving in the jury of a particular case with some consequences, one feels very sympathetic towards the weaker sex. Mr Speaker, I am not at all convinced by the argument of my Honourable and Learned Colleague and I would say that lawyers have the ability of being able to argue so beautifully one point of view one day and then argue completely the opposite the following. That is one of the blessings of both this House which is blessed with eminent silks,

lawyers and with our judicial system. Mr Speaker, I am afraid I am not convinced and I want it to go on record as saying that I have nothing against women, on the contrary, I am defending the rights and privileges of them wishing to come in and in doing so they are more than welcome but I feel that we should not overburden the females who are already more than overworked as housewives or working outside and most males normally overlook this and tend to take it for granted. I will accordingly vote against the motion.

HON J BOSSANO:

Mr Speaker, I am not convinced by the Bill and I will explain why. I want to say that in fact I hadn't realised just how controversial this Bill is when I saw it in the order paper. It is incredible that this should generate more heat in the Assembly than the closure of the Dockyard, Appledore's proposals and all the rest put together but that appears to be the case, and the impassioned speeches that we have heard here and the extraordinary situation, I think, on the Government where nobody is prepared to break ranks over the dockyard despite the fact that some members of the Government are absolutely convinced that it is a mistake to accept commercialisation, they are prepared to break ranks on this one. This is a Government Bill and although I think it is a very exciting experiment in parliamentary democracy, it is a very unusual one. The Honourable Financial and Development Secretary has told us that he feels given the polemical nature of legislation that as an ex-officio member he must abstain. Are we to take it then that the ex-officio member who is actually introducing the legislation is also abstaining? Well, it seems a very extraordinary thing to bring something to the House and then abstain.

HON ATTORNEY-GENERAL:

If the Honourable Member will give way I will explain my position in my summing up.

HON J BOSSANO:

It seems to me, Mr Speaker, that the arguments for introducing a requirement making it compulsory that women should serve on juries do not hold water in terms of defending women's rights given that everybody that claims to do that at the same time accepts that women don't want it. I don't subscribe to the idea that one can set oneself up as judge of what is good for people. I do not think that I am doing any service to anybody if I am forcing them to do something they don't want to do and

doing something in their name which they don't want me to do. That is a basic concept in democracy, we are elected to the House of Assembly to reflect the wishes of the people who put us here and even if we feel very strongly on a matter of principle that what the electorate wants us to do is in conscious something that we cannot do, then we stake our own personal convictions onto that mass and people can then decide to remove us when the time comes or respecting our views put us back. I would be myself inclined to support the idea I think principally because it has been projected in the public eye as a progressive measure and therefore I would almost instinctively identify myself with it without analysing it, it is put forward in fact as a measure of enhancing the emancipation of women and of putting them on an equal footing with men and I subscribe to all those ideals. I believe, in fact, that society should move in a direction where the sex of an individual citizen is an irrelevant consideration the same as the religion of an individual should be an irrelevant consideration and very largely is in Gibraltar. We are very justifiably proud of the fact that in Gibraltar a person's religious convictions or total absence of religious convictions as in my case is no impediment to the role that he might play in society, people do not see that as a barrier and equally, I don't think people should say that that person is not suited to be on the jury or to be a judge. Or to be a member of the House because that person is female instead of male and therefore if the Bill was doing that and if the Bill is presented as doing that then I subscribe entirely to that view but I think the Honourable Member who said he was going to persuade people to abstain and I am not sure that he succeeded in doing that he might have succeeded in moving one from abstaining to voting against by the nature of his arguments. I don't think he is being fair, quite frankly, to the valid point that has been made. If he says that he challenges us to give males the option that females have got, I accept that challenge, I am quite happy to move towards equality by making the law the same for male and females not by introducing what is applicable to males today to females but to introduce what is applicable to females today to males and then you have got males and females on an equal footing and if we find that males do not want to be on juries why should they be dragooned to be on juries and if in fact a system of law that depends on reluctant jurors who are only there not because they have got civic consciousness but because in fact they have not been able to escape, being made to serve on a jury is that the best way of deciding on a person's guilt and innocence? Is that the best system? Let us examine the fundamentals of the system because I can tell the House certainly that when we discussed it in the executive of my own party the two things that came across clearly was that if this was in fact a progressive measure giving equal rights to women then we as

a socialist party identify ourselves with it, that the feedback that we have from our own membership that to be told that they are on the jury is almost like being sentenced instead of being there to sentence somebody and if they could do anything to escape it they would. I think the Honourable Mr Zammit is perfectly right. If we have got a situation where the people who are giving a right to people who haven't got it that the people who have got it would be delighted to give up any minute is that the picture that we have been given in this House. Well, I think then this requires more thought, quite frankly. I think there are weighty arguments put against it and I think if we have got a situation where we are moving in this direction on something that doesn't seem to me to certainly generate as much passion outside the House as it does inside the House, when we have other pieces of legislation like my long delayed amendment to the Pensions Ordinance for which I have been waiting patiently for 5 years. Surely, if Government can devote time to drafting this, there are more things that need to be done which are more important and which people have been waiting for. I think if the Government really comes across with a Government view the Government must take a position on it. I don't really believe that Mr Canepa is in fact opposing this because he is anti-female otherwise if he believed that a woman's place was in the home presumably he would insist that his wife was in his home, not working.

HON A J CANEPA:

My wife has been working for nearly 20 years and I still would have to come home and not find a meal on the table. I wonder if all members whose wives are working can subscribe to that.

HON J BOSSANO:

I think it is wrong to reduce the argument to simply a pro-male and anti-female attitude, I don't think it is that, and I think the wise thing for the Government would be not to push it through at this stage and perhaps give it more thought, quite frankly. I think it would be wrong if we had a situation where this was passed by a majority of opposition votes what is a Government Bill.

HON CHIEF MINISTER:

Mr Speaker, I am sorry that an official commitment that I couldn't postpone deprived me of listening to those who contributed particularly when for reasons that were explained by my colleague and I will explain with a little more detail

it was decided that this was a matter to some extent of conscious and that we would not have a Government line and I will explain in a minute why it is here and why it may be here in preference to other measures of legislation which are more complicated and have not come and should have come before. There is a set-up, a certain committee, which is called the Law Revision Committee which is formed by the Chief Justice, the Attorney-General and the Leader of the Bar and I imagine that the bulk of the work is to see what is happening in England and try and see whether in the juridical form it should come to Gibraltar. In the process of that we had a recommendation which amongst others had this one and another one which purported to recommend to introduce in Gibraltar the equivalent of the homosexuality Bill in the United Kingdom where homosexuality amongst consulting adults in private was not an offence. Well, that one was thrown out without any problem whatsoever. Certainly there was no one in favour of that and certainly it was one in which I did not think that we had the mandate to bring a Bill of that kind here and therefore that was eliminated from the recommendations of the three wise men of the Committee. This one posed other problems, marginal problems in a way, it was a question of the Council being divided. I really don't remember, I have a very bad recollection, probably my colleague can remember better, whether we really counted heads as to who was in favour or not. We were sufficiently divided to say that I thought that this was a matter for public discussion and that is what we are doing here. I think the members of this House are the best forum in which a matter like this in which there is no party line on policy it is a matter of views and that is shown by the fact that both members on this side are of different views the same as members opposite though in some cases the attitude is predictable as between the, I don't say this as a generality but those who are progressive and those who are not so progressive but I am not reflecting on that on my colleagues it is only in respect of members opposite. Let me say that my approach to this matter is absolutely practical and pragmatic and that I will not either attempt to persuade anybody. I do not believe in that phrase "an exchange of views was held". Nonsense, people will never exchange views, they keep their own, they just tell the other one what their views are. So there is never an exchange of views, one doesn't change the views of one for the other one. It is only a way in which each one communicates to the other what he thinks, views are never exchanged, views are held. My approach for supporting the Bill or that part of the Bill which refers to women is threefold. In the first place because there has been a considerable amount of agitation from women's representative association that this has happened and this is the first time that they are asking for something which carries a responsibility. All the other things that have been asked for are equality in privileges. This is equality in

responsibility. I am encouraged by the fact that the provisions are such that in my view the bulk of the people who are going to be given this right are going to ask to be exempt from it with good reason. But we will put it to the test whether we are being progressive with women or we are not being progressive with women in this respect. Later on in this session there will be the opportunity of discussing a sex discrimination Bill where all the questions of philosophical and other attitudes regarding the sexes may be a much wider element of discussion, this is a very limited one. But, in fact, first of all there is this claim on the part of the women's organisation to have the same rights and duties in this respect. The other one is the fact that the clauses are made in such a way that a normal housewife who has other responsibilities and are not those who either go out to work like anybody else, would be entitled to be exempt from serving in juries and I have no doubt like all duties that are imposed, in the first place that there will be a very liberal attitude in bringing women to serve. On the other hand we cannot have it both ways. We cannot be going for equality of pay, equality of opportunities in the general field of our society we do not have equality of an element of responsibility as is the case of serving in juries. The financial aspect of the matter mentioned by the Financial Secretary do not impress me except there will be one capital item if it is passed and that is you will have to build another luo, that is obvious. At the same time, in certain cases it is certainly advisable and convenient to have the views of women in certain cases which come before the court. I am thinking more in criminal cases than in civil cases, elements of cruelty or child bashing and things like that where the female element can make a good contribution towards the thinking of it. But as I say, this was an example of an attempt at a consensus outside a Government measure because it was of sufficient interest and let me say that I do not know, I haven't counted the heads, and I do not really care what the outcome of the vote will be. I will cast my vote in favour because I think it is a progressive measure in which women must have not only rights but responsibilities and they can make some of them, a few to start with, can make a contribution. Mr Perez has mentioned the number of women on the bench. Alright, we only have three or four now, but 30 years ago we didn't have any, or one only, Mrs Ellicott. Progress has been made in that respect and I don't see why some element of progress should not be made here. I understand that there were only 2 women who offered themselves for service under the present provision of voluntary jury service. One being perhaps automatically disqualified being the wife of a Member of the Bar, or challenged, no doubt, immediately, and the other being the former Chairperson of the Women's Organisation, who has I was told the other day sat in several cases, it has gone by unnoticed perhaps by the media but she was telling me that

she had sat in several cases and she found it interesting. And if in fact the system which has been provided in the Bill is one that will make it easy for people with home responsibilities, the ones who have got to cook the lunch, or who are at work, but if they are at work they may be given leave from work, are asked to attend and are not able to attend, they will be exempted. I am also advised that in the preparation of the list by the Registrar, he has got a certain amount of latitude as to who he puts into the list and he exercises his own knowledge and the advice given to him as to which people are likely to find difficulty in attending jury service, such as people with big family responsibilities or difficulties at home and so on and apart from that there are very liberal provisions for exempting. But here was a case, marginal if you want to call it, in respect of Government policy in which a wider spectrum of opinion than Council of Ministers should decide whether this responsibility which is also a right, should be given to women or not and that is why we have brought it here.

HON G T RESTANO:

Mr Speaker, before touching upon the controversial issue of the Bill of whether women should or should not be on the jury list, I would like to touch upon another issue which I think, to my mind anyway, is much more important than whether women are or men are, or women are not or men are not on the jury list. To my mind, I think the most important thing is the quality of jurors that are available, whether they be male jurors or female jurors. I think it has been touched upon by my Honourable Friend the Honourable Leader of the Opposition and Mr Haynes this morning but I think it is something which should be stressed a bit more. At the moment, apparently, the way that the jury list is compiled is by 5,000 male names being taken out of the register of electors and one reason was given this morning for possible disqualification, well, obviously necessary disqualification, the language problem, the language difficulty. But let us face it, let us be honest, the language difficulty is not the only consideration to be taken for a person to be a juror. I think that we are all aware of the rather sad effects of certain aspects of the education system that we have where persons do come out of school and after a few years are eligible to be jurors, are unable to do their three times table. I am sure that other Members of this House have had the experience of meeting persons who come out of school and who are subsequently eligible to be jurors and who I wonder whether they are qualified and whether it is fair for somebody who is being tried to have to rely on certain persons who certainly do not have, shall we say, the educational capacity to try and even understand what is happening even if they are on the jury. Not

that I think that arithmetic is a criteria but we must realise that when people are being tried, they should be tried by jurors who are capable of understanding both what the judge says, what the advocate says and what the defendant says. I think that is very important. In England, for example, over the recent weeks there has been a certain amount of comment on the competence of juries. This has not come from the press or from convicts, it has come from none other than from the Lord Chancellor himself and I am going to quote here Mr Speaker, if I may, and also from Lord Lane, who is the Lord Chief Justice of the United Kingdom. I am going to quote here from an editorial from the Daily Telegraph of Monday 26th September, so it is quite recent. I will quote a few things from it which I think I am bringing up as food for thought. The headline, in fact, is Juries on Trial. And it says "Judges in the criminal courts have been voicing misgivings about the jury system or rather the abuse of the system for some time. The Lord Chief Justice, Lord Lane, outspokenly joins their company. Lord Lane's particular anxiety was directed at large robbery cases where profits from crime may be used - and the word is - to nobble juries. I will come back to that a bit later - As far as the Lord Chancellor, Lord Hailsham is concerned, he had a discussion recently where he discussed the idea of an experiment involving trial by laymen sitting with a lawyer as chairman in cases where the defendant consented. A limited experiment in certain types of criminal trials whereby the jury is replaced by a judge with two assessors or a lawyer with laymen would be one way forward". To me, bearing in mind what I said earlier where I do question the competence of certain persons who are members of juries, I think there is merit in considering and thinking of such possibilities not to replace necessarily the jury system but possibly as it says here, as an experiment to run in conjunction. I think where we have persons of the stature of the Lord Chief Justice and the Lord Chancellor of Great Britain thinking about the possibilities of experimenting in systems, I think one might also think the same way and I think that particularly in Gibraltar the question of nobbling the juries is particularly apt insofar as Gibraltar is concerned. I am not saying that juries are being bribed, I mean nobbled in the sense that everybody knows each other in Gibraltar. If one doesn't know an individual personally one knows his family, members of his family, one knows his friend, there is influence all the time and I think that this is bound to happen in Gibraltar and nobody can convince me otherwise. I use nobbling as far as Gibraltar is concerned in that respect. I am not saying that there is any bribery or corruption but there could be to a certain extent without it having been actually done it is implied because of the influences that can be exerted. Mr Speaker, coming back to the question of the controversial aspect of the Bill which is to confer on women the same rights and duties as men in respect of jury

service, I would like to see more and more women serving on our juries but I have to say straightaway that I do not think that the majority of women want to have this imposition put on them. I know that the majority of men have had this imposition and I do not see that two wrongs necessarily make a right. I don't think that it is wrong for the men to have the imposition put on them but I do think that men do have a lot of other considerations. If women wanted to serve on juries we would have seen that happening already, we would have seen more women coming forward. What I think should be done is a campaign to try to get women to offer themselves for jury service of their own free will, of their own accord, not imposed on them. I do not think quite frankly that the majority would want this, this is a political judgement one has to make. One is voted into this House, one is voted by the whole community, and I think that at a time like this one must make a judgement, does one think that the women want this and does one think that they do not. If we didn't have a jury list which is long and large enough women were required to come in because we didn't have enough jurors, then I would say fair enough. But we do, we have 5,000 jurors and I think it would be imposing on the women an imposition which (a) is unnecessary unless they want to do it and, secondly, which they don't want to have imposed upon them. As far as the question of exemption is concerned, to me it is six of one and half a dozen of the other. You say "You are forced to come in but you can go out", or "You are not in but you can come in if you want to". This is all the same, six of one and half a dozen of the other. As far as I am concerned, I don't think that the Bill is at all necessary and I don't think it is what the majority of the women of Gibraltar want and therefore I shall be voting against the Bill.

HON CHIEF MINISTER:

May I just make one clarification, Mr Speaker, which I think we ought to clear and that is that whether we like that section or not the Bill should go forward.

MR SPEAKER:

I was going to explain.

HON CHIEF MINISTER:

Yes, because it is not the whole Bill. The whole thrust of the argument has been on the question of women but there are other provisions on the Bill which we want so at least at this stage we should not be guided by that because that can be done at Committee Stage.

MR SPEAKER:

Yes, I will explain before we take a vote on the Second Reading.

HON ATTORNEY-GENERAL:

If I may just take up the point made by the Honourable Mr Restano about six of one and a half dozen of the other. I must say, Mr Speaker, I have a nasty feeling that it is going to be six of one and seven of the other, we will find out in a moment. Mr Speaker, a lot has been said and I realise this is obviously a matter on which the elected Members of the House attach considerable importance. What I would like to do is to take advantage of my being here in summing up what I have to say; to put forward what I would take to be the view of the law. I do not mean the law as law, I mean the legal profession, the judges, towards a matter like this in case it helps the House in coming to a deliberation in deciding what they are going to do. I think the way this is seen, Mr Speaker, is that there are three important rightful functions of a citizen, there are more of course, but three particularly important ones. One is to be able to cast a vote, one to be able to offer oneself for office and I would see the commitment or the responsibility for doing jury service as another one in the same class as that. I think that would not be a very controversial view I think most people would see jury service as being of the same kind of thing as those other two functions. The point has been made and in fact has been dealt with by my Honourable and Learned Friend, Mr Perez, but the point has been made that in the case of casting a vote it is a right which one does not have to exercise and I suppose you can say the same thing about offering oneself for office, you don't have to exercise it. But I think there are practical reasons rather than reasons of principle. why nevertheless jury service is of the same kind that you have to express it in terms of requiring people to do jury service rather than not to require them to do it because as has been said if, in fact, there was a single rule for men and women and that rule was the rule which now applies to women, namely, that you volunteer for jury service, there is no doubt whatsoever in my view that the result would be that we would have great difficulty in getting jurors, there is no doubt about that at all. I don't expect to be able to persuade the Honourable Mr Bossano to change what is clearly a fundamental point of view, namely, that a person should not be called upon to judge another person, but I am bound to say myself from the professional point of view, the strictly legal point of view, that I would subscribe to the view that citizens must come forward and undertake the responsibility of performing jury

service which is the major reason why I think the Law Revision Committee would like to see the law equalised or put the same for men and women in this respect. Mr Speaker, the point has already been made that there are other matters in this Bill and therefore hopefully this Bill will be considered at least at Committee Stage, I think there is another reason in relation to women jury service why I would hope that Members would see their way clear for doing this. It seems to me that nobody is seriously contesting the principle that there should not be discrimination between men and women in relation to the civic functions of jury service. After all, in the second reading we are concerned with the principles. What is being contested as I see it, is the practicality of it and to me that seems to be clearly a matter for Committee rather than a matter of principle on the second reading. One other point that I would like to make, Mr Speaker, because I have seen this elsewhere, is that at the moment it may be very true that there are few women on juries but in practical terms what will happen if and when everybody is required to serve upon a jury unless they apply for exemption, what will happen is that you will get far more women serving on juries I have seen it happen elsewhere and I am quite sure that it will happen here because it is a fact of life as I said at the outset and I don't really want to repeat myself, it is a fact of life that people may have rights but most people go about their daily affairs and will not necessarily go out of their way to undertake those rights. On the other hand if the law says that unless they seek exemption they must attend for jury service, I believe you will also find that most people will accept that obligation, there will be some who won't and in Gibraltar it may be a greater number who won't than will be the case in other places because clearly, family life is a very powerful factor in Gibraltar. But I think the practical result of what we see if this were to be adopted will be that the jury list would have a substantially greater number of women on it and the further practical result of that will be that jury trials in Gibraltar would come to have women on them in increasing numbers. Again may I say from the legal point of view, from a lawyer's point of view, I think that is a thoroughly desirable state of affairs because if I can put it this way the complementary element of society is participating in what is surely one of the basic functions namely, to judge fellow citizens in trials. I don't really think at this stage I want to speak in great detail on the other points that were raised but I note the point about the possible desirability of retaining special juries for civil cases because the parties may find that convenient. I must say the whole philosophy, I think, in seeking to abolish special juries altogether is really another aspect of what has been said about altering the law as to women jurors, namely, that it seems as being desirable that every citizen should participate in the judicial process and

that there shouldn't be a special class known as special juries, there should be common juries and nothing else. That is the philosophy behind that. But I can see that it might be less objectionable in a civil case where really a lot of the rationale of a civil case is that the parties choose their forum and choose their judge. It may be less objectionable there that there should still be special juries. The only other general point of principle I would like to deal with, Mr Speaker, is the question of whether or not in society today there is really any evidence to suggest that we should be moving away from the long established principle of a judge and a jury of ordinary citizens towards a judge and an assessor and may I say so myself I would be strongly opposed to any change in that direction. I do not believe that there is any real evidence to suggest that apart from possibly very current comment in the newspapers and I think that a judge and a jury system is one of the best systems and I hope it will not change.

HON G T RESTANO:

If the Honourable Member will give way. This is not a comment in the newspapers, this is the Lord Chancellor of England talking.

HON ATTORNEY-GENERAL:

Well, in that case I must be duly respectful but I am entitled to put my own position and my own position is that I think it would be a retrograde step to go away from the long established system of judge and jury.

MR SPEAKER:

I will now put the second reading of this particular Bill to the vote. As has been made quite clear by the Chief Minister and the Attorney General there are other provisions in this Bill which do not deal with the matter of women jurors.

HON ATTORNEY-GENERAL:

By your leave, Mr Speaker, I am sorry to interrupt you, but I did undertake to say what I will be doing on this Bill. I think the position is well understood that while I subscribe to the principles of it completely I will be abstaining for reasons which Members will understand.

MR SPEAKER:

Therefore the vote now will be on the general principles, of course, subject to what has been said in the House and the particular reservations as to particular sections which have been expressed by Members.

HON A J CANEPA:

Mr Speaker, if not all Honourable Members who are now here are present when the Committee Stage is taken the voting could be different in the Committee Stage to what it would be now.

MR SPEAKER:

All I am saying is what the position is. Members are free to vote on the second reading as they wish.

HON A J CANEPA:

What I am saying is that if those of us who are against the provision regarding the question of women on jury service support the Bill now the Bill goes into Committee.

MR SPEAKER:

That is correct.

HON A J CANEPA:

There is no guarantee in Committee that the voting would be the same because the people who are now here may not be here when Committee is taken. Could we take Committee Stage this afternoon in order to guarantee therefore that the voting would be the same. I am prepared to support the Bill in the Second Reading to allow it to go into Committee if Committee is taken this afternoon.

HON MAJOR R J PELIZA:

I would object to that. I think the people generally should be entitled to hear what has been commented in this House and they too should be entitled to pass comments if they so wish. Why is there such a hurry, is the Minister afraid.....

MR SPEAKER:

We are now discussing a procedural matter and it is not a question of making allegations against a Minister. It is simple. The Minister is trying to find a manner in which all the wishes of the House can be met and the way that all the wishes of the House can be met according to him is if it is agreed that the Committee Stage is taken today. If the House does not agree to that then of course Members will be free to vote on the Second Reading as they feel they should, it is as simple that.

HON A J HAYNES:

Mr Speaker, why don't we wait for Mr Scott to come back, I know what his view is.

MR SPEAKER:

Order. Having cleared the position I will now put the question and each Member can vote. May I say that if the Second Reading is not carried of course the Bill will be out in its entirety.

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

The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit

The following Honourable Members abstained:

The Hon I Abecasis
The Hon J Bossano
The Hon Major F J Dellipiani
The Hon P J Isola
The Hon G T Restano
The Hon D Hull
The Hon E G Montado

The following Member was absent from the Chamber:

The Hon W T Scott

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

THE LAW REVISION (MISCELLANEOUS AMENDMENTS) (NO.2)
ORDINANCE, 1983.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to make further minor amendments to various Ordinances as part of the revision and consolidation of the statute law, be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill carries into further effect the reprint of the statutory laws of Gibraltar which is now being undertaken by the Commissioner for the reprint Sir John Spry. I don't propose to speak at any length at all on the principles of the Bill, Mr Speaker, at least in moving the motion because I think the principle is already been well accepted, namely, that there should be a reprint of the statute law of Gibraltar and Members will recall that at the time when this proposal was initiated I indicated to the House that apart from the editorial changes which the Commissioner would undertake in the course of his work, it could also be desirable to make a number of substantive changes to the law. When I say substantive changes I mean changes that technically are changes in the law but not substantive in the sense that of introducing new matters of policy of any significance. This is the second measure directed towards the end and it contains a number of detailed amendments to various statutes for that purpose, Mr Speaker, which I feel would be considered in Committee as such. The Bill was published a week ago and I think that Members would want time to consider in detail the various changes that are proposed. May I also mention that with the deadline for the completion of material for the reprint on us, really, there will be some further amendments which I will propose at Committee

Stage in order to carry this Bill into effect. As I say, in principle this is a Bill to carry into better effect the reprint of the law of Gibraltar now being undertaken. Sir, I commend the Bill to the House.

MR SPEAKER:

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

There being no debate 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 Bills taken at a subsequent meeting of the House.

HON CHIEF MINISTER:

Mr Speaker, as we intend to adjourn the business of this meeting to deal with other matters in the Supplementary Agenda, I hope that we are not bound by saying at a subsequent meeting not to be able to deal with Committee Stage and Third Reading of some of these Bills.

MR SPEAKER:

You are not bound provided the Supplementary Agenda is issued and any Bill is included

HON A J CANEPA:

Mr Speaker, I think Honourable Members were under the impression that the Committee Stage and Third Reading of the Supreme Court Bill was going to be taken at this meeting. If it is going to be left to a subsequent meeting and there is any likelihood of the matter having a different result, I would have voted differently on the Second Reading of the Bill.

MR SPEAKER:

I do not know what Members impressions were. I will most certainly say that the Bill was not down in the Agenda for Committee Stage and Third Reading.

HON A J CANEPA:

Mr Speaker, if Honourable Members had exercised their vote in the manner in which I think Honourable Members would probably have done and the vote was not carried, the Bill does not go to Committee if it is defeated at the Second Reading. I think as a result of one having altered one's vote and allowed it to go through and have a Second Reading, it is now going to go to Committee at a subsequent meeting when the result might be different. That, I think, makes a mockery of the debate that we have been having here today.

MR SPEAKER:

The Agenda for the meeting was circulated. Whether Members were aware of the fact that this particular Bill was not down for Committee Stage and Third Reading is another matter.

HON A J CANEPA:

I think we have been inadvertently misled, Mr Speaker, in the manner we have voted this afternoon.

MR SPEAKER:

By whom? Is it an allegation? Perhaps by the fact that Members have not read their Agenda, most certainly, that could be so.

HON A J CANEPA:

One does not always check, Mr Speaker, when one sees what is down for First and Second Reading what automatically goes into Committee Stage. I was holding the matter here this afternoon when I was explaining what my attitude was on the Second Reading of the Bill.

MR SPEAKER:

In any event, the Chief Minister has asked a pertinent question and there is no reason why it should not be included in the Supplementary Agenda which has to be discussed when we meet after the recess.

HON G T RESTANO:

When the Honourable Mr Canepa before the vote was taken said

that the Committee Stage should be taken today, why didn't the Attorney General at that particular point in time inform the House that the Committee Stage would not be taken until a subsequent meeting. I am sure that would have been the time to have said so.

MR SPEAKER:

The Agenda gives Members notice of the work which is going to be presented to the meeting, the mover of any particular Bill gives notice as to when the Committee Stage and Third Reading is going to be taken subsequent to the Second Reading and not before, that is the procedure.

HON ATTORNEY-GENERAL:-

Mr Speaker, if I may by way of explanation and with great respect to my Honourable Friend, I made a point at the stage in which I gave notice of the Committee Stage of saying that I wasn't quite sure what the intention of the House was and I did in fact raise the very point which has now come up so it is not a question of bypassing.

MR SPEAKER:

I have no doubt in my mind that most certainly there has been a misconception and misunderstanding and that if this matter had been cleared before perhaps Members would have voted differently.

HON CHIEF MINISTER:

I think the matter could be corrected if we deal with the Committee Stage at this meeting later on. I know that this presents certain problems to the Attorney-General but we have to deal with them because I advised my colleagues to vote in favour on the basis that we were going on with the Committee Stage and Third Reading at this meeting otherwise we would have misled them.

MR SPEAKER:

I entirely agree with the Honourable Mr Canepa that he has voted under a misconception.

HON ATTORNEY-GENERAL:

If I can be of help, Mr Speaker, wouldn't the answer possibly be to deal with this Bill partly in Committee, namely with this particular Clause and then report progress. There are problems about dealing with the rest of it in Committee.

MR SPEAKER:

Well, perhaps one can study the matter and then we will decide when we come back from the recess as to when the Committee Stage is going to be. I accept now what Mr Canepa was saying because I hadn't realised what the misconception had been.

HON A J CANEPA:

It makes a mockery for one to speak in the terms in which I did this morning and then to vote in favour of the Second Reading, it is a nonsense. It is not a nonsense having regard to what the Chief Minister has said because the Chief Minister said: "Vote in favour so that it will go into Committee". I have done that, but not to leave Committee to a subsequent meeting or even to November 8th.

HON MAJOR R J PELIZA:

Mr Speaker, I certainly object to the Bill being rushed through.

HON A J CANEPA:

The Honourable Member talks about rushing the Bill, does he not understand that if Honourable Members this afternoon had voted in the manner in which they have spoken today the Second Reading would not have gone through, it would have been defeated and the Bill would not be any longer before the House. Doesn't he realise that, so what is he talking about rushing?

HON MAJOR R J PELIZA:

I accept that, they should have done it if that is the way they felt.

MR SPEAKER:

Order. It is the Government's prerogative to decide what goes into the Agenda of a meeting, it is the Government's prerogative to suspend Standing Orders. If in the circumstances they wish

to do that then they are entitled to do so.

HON CHIEF MINISTER:

I was under the impression that it was for Committee Stage and Third Reading at this meeting and on that basis I advised my colleagues to vote in favour.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Mr Speaker, by your leave the Government wishes to proceed with this Bill at a later date.

MR SPEAKER:

It will not proceed with this particular Bill until the next stage in this meeting?

HON ATTORNEY-GENERAL:

At a later stage of this meeting. In this sitting, Mr Speaker, but not at this part of this sitting.

MR SPEAKER:

We will then go on to the next Bill.

THE PENSIONS (HOUSE OF ASSEMBLY) (AMENDMENT) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Pensions (House of Assembly) Ordinance (No.22 of 1979) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second

time. The Pensions (House of Assembly) Ordinance, 1979, provides for the payment of pensions to the Speaker and the elected members of the House of Assembly. This legislation generally follows the superannuation principles adopted for the public service. It makes no provision, however, for the payment of any compensation by way of enhanced pension and/or gratuity as is the case for the public service under the Pensions Ordinance where a Member of the House of Assembly is injured or killed in the execution of his duty. The purpose of this Bill is to provide benefits for Members of the House of Assembly similar to those applicable to members of the public service generally. I should explain that under the Pensions Ordinance a public service officer who is injured in the actual discharge of his duties may be awarded a pension based on actual service with an additional pension based on the degree of any consequent disability. The Ordinance also provides for the payment of pensions to dependents where an officer dies as a result of injuries received or a disease contracted in the discharge of his duties. These benefits may be awarded notwithstanding that the officer concerned may not have completed the necessary 10-year period of pensionable service to qualify for a pension. The qualifying period for Members of the House is in fact 90 months. A pension, I should add, for a public service officer relates to the hypothetical pension produced by reference to length of service and retiring emoluments. The retiring officer has the option to reduce his hypothetical pension and obtain a reduced pension and a gratuity. If the option is not exercised the hypothetical pension becomes the full pension payable to the officer concerned. In the case of death in service either through natural causes or from injury in the discharge of official duties, the estate of the deceased would receive the maximum gratuity which would have become payable had the deceased exercised an option for such a gratuity. The Bill before this House proposes to confer these benefits to Members of this House. Moreover, Sir, since the principal Ordinance when enacted was retrospective to the 1st of August 1964, it is also proposed to amend the Pension (House of Assembly) Ordinance, 1979, correspondingly, that is, with retrospective effect to that date. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I should explain that the origin of this Bill is not

in any way related to any particular injury on which any Member could benefit but purely at a time when Members might have been at certain risk in carrying out their functions outside Gibraltar. I have refrained from bringing this Bill to the House until other legislation, particularly regulations affecting pensions in the service had been completed because I did not want us to be in advance of that. I am assured now that all the pending regulations of other matters affecting the service have now been passed and that is why the Bill is now brought to the House.

HON P J ISOLA:

I have one question on this particular Bill and that is that I notice the Financial and Development Secretary has in fact delivered a prepared statement. We, on this side of the House, without our insurance adviser, my Honourable Friend Mr Scott, have found it difficult to understand the provisions of this Bill. We know what the intentions are but it would be very useful and helpful to us if we could have a copy of the statement of the Financial and Development Secretary and if it is possible understanding Orders to defer the second reading to a later stage so that we have had time to consider it.

MR SPEAKER:

I think it is intended to have the Committee Stage at a subsequent meeting.

HON CHIEF MINISTER:

Yes, not at this session, at a subsequent meeting.

HON P J ISOLA:

Yes, but for the purpose of addressing the House on it it would be very helpful if we could consider that statement. Having heard the Financial and Development Secretary's contribution, could the Second Reading of this Bill be deferred towards the end of this particular meeting, that is what I mean.

HON CHIEF MINISTER:

But there have been consultations on this, on my understanding, with Members opposite and it is no surprise that this Bill has come now.

HON P J ISOLA:

No, don't get me wrong, Mr Speaker. We are anxious on this particular Bill, we are anxious to understand it fully, we are reassured by what we have just heard about the position and as we are talking about Members of this House we are anxious to see exact relationship with the civil service as a whole. The Honourable Financial Secretary has given me the details that we were actually missing. We are not trying to delay it.

HON CHIEF MINISTER:

We can take the Second Reading at a later stage of this meeting.

THE AUDITORS REGISTRATION ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the registration and control of auditors and for matters connected therewith and ancillary thereto be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The proposals in the Bill originate from recommendations made by the Gibraltar Society of Chartered and Certified Accountants. The aim is to have a register of auditors for the purposes of the Income Tax Ordinance. Under the Companies Ordinance there is no need for an auditor of a limited company to be qualified in any way. Section 125(1) of the Ordinance only disqualified a person who is a director or officer of a company and except where the company is a private company a person who is a partner of or in the employment of an officer of the company. The Government welcomes the measure because a number of private companies have unqualified persons appointed as auditors and in many cases the accounts submitted to the Commissioner of Income Tax by these auditors are not properly set out. In such cases the Commissioner of Income could exercise his powers under Section 49(2)(b) of the Ordinance to refuse or accept a return and could himself raise estimated assessments. This practice would lead to objections

and appeals which would be administratively burdensome and it would delay collection of tax. Moreover, there are cases in which the accounts although properly drawn up are not acceptable for other reasons. For example, some accounts are certified by persons whom the Commissioner has reason to believe have not carried out the audit or drawn up the accounts. In these cases the Commissioner is unable to obtain readily information required on the accounts. The Bill before the House requires that the auditors of companies registered under the Companies Ordinance other than under Part 9 that is companies incorporated outside Gibraltar, should be registered. Those persons who have qualifications which are recognised in the United Kingdom for the purposes of auditing accounts under the UK Companies Act and persons with similar qualifications obtained outside the UK will be registered as exempt and will not be under the disciplinary control of the board. They are already under the disciplinary control of their own recognised body of accountants. Other persons registered by the board will be under its disciplinary control. An Auditor's Registration Board composed of three persons will be appointed by the Governor after consultation with the Gibraltar Society of Chartered and Certified Accountants and other appropriate persons. At least one member of that board will be a member of the society. The proposed register will be in two parts. Part I will contain particulars of exempted persons, Part II will contain particulars of persons who satisfy the board that they are of good character and who in the opinion of the board have obtained adequate knowledge and experience as accountants and auditors and spend a reasonable proportion of their working time on accounting and auditing. The register will be kept in the registry of companies and is to be open to inspection to the public free of charge. The Auditors Registration Board itself will exercise disciplinary control over all persons registered in Part II of the register in the event of conviction for a previous criminal offence or their being guilty of disgraceful conduct. The sanctions would be removal from the register, suspension, cautioning or censure. However, there would be a right of appeal to the Supreme Court against such measures or against the refusal of registration. The Board would also have discretion to restore names to the register. There would be a small fee for the expenses of registration payable by every person whose name is entered in the register. Transitional provisions would allow unqualified persons appointed as company auditors before the commencement of the Ordinance to carry on as such until the next annual general meeting of the company or until the expiry of 15 months after the commencement of the Ordinance whichever is the earlier. Clause 12 of the Bill amends the Companies Ordinance making it an offence for a company other than one registered under Part 9 to appoint an unqualified auditor. Mr Speaker, Sir, the proposals in the Bill have the support of the Gibraltar Society

of Chartered and Certified Accountants and may be regarded as a further improvement in the framework under which the financial services are provided in Gibraltar. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, we welcome this Bill subject to a few reservations and observations. What this Bill does is to ensure, presumably, that only people who are qualified to do so should be auditors to companies and with that we agree. It also, I hope, seeks to put the position of those who have spent a lifetime or a long time auditing companies and who are qualified by experience, rather like the dentists were some years ago and other people, to give them the right to register and be auditors of companies. With that general principle we agree. I think we also agree and we also feel that once a person has been registered as an auditor under Part 2, or whatever it is, he should be able to exercise all the functions auditors can exercise in Gibraltar and I hope that it will be possible to bring an amendment to this Ordinance at a later stage to enable such persons to act as auditors of exempt companies. In my view, there is no reason why if they have been recognised as auditors in Gibraltar and able to produce books for the Income Tax Office, why they should not be able to do a signature once a year, which I believe they do not even do once a year, merely saying that there have been no loans from a Gibraltarian to an exempt company and I think they ought to have the rough with the smooth and being auditors of exempt companies, Mr Speaker, I understand is the smooth side of the business. That is the first point. The second point I want to make and I think this may require slight amendment, I am not very clear. A person who satisfies the board that he is a chartered accountant shall be exempted by the board from registration. From that, it would seem to me that the person who is a chartered accountant not practising in Gibraltar at all would commit an offence, or a company that employs a chartered accountant not resident in Gibraltar would commit an offence unless that person applied for exemption to the Gibraltar board. I don't think that is right because I think the intention is that people who have established qualifications like chartered accountancy in the United Kingdom are entitled to practice in Gibraltar and, therefore, although there is no harm in requiring people to come to the board to register if they are doing a lot

of companies in Gibraltar, I am really relating myself to the criminal offence which is at the end, that the Financial and Development Secretary has referred to, under which a company that appoints as auditor a person who is not qualified to be an auditor shall be guilty of an offence and fined £500, whether that section should not be amended slightly so as to say that a person who is exempted or who would be entitled to be exempted, because it would seem to me that for example, let me give you an example, I do not know who audits the accounts of Shell, for example, or Blands, I don't know, whether they are local companies or outside companies. They would have to come to Gibraltar and register to be exempted otherwise Shell would be committing an offence. Blands in Gibraltar, or Barclays in Gibraltar, or whoever has to present audited accounts to the Government. I don't know whether Barclays Gibraltar although it is a London company, I suppose they have to present audited accounts here to the Income Tax Office, I don't know, but if they do and their auditors are in England, Barclays would be committing an offence unless those auditors have come to Gibraltar to be registered. I don't think we should put anybody who is entitled to be exempted or any company who employs somebody who is entitled to be exempted, liable to criminal prosecution. I think it only requires a slight amendment. You might say, well, it is very simple to be exempted but there must be a number of companies, I certainly know a number of companies, exempt companies, for example, who have auditors anywhere, a chartered accountant, is that man is going to have to come now and apply to the board and will that not bring unnecessary statistics to the Board. You might find that registered in Gibraltar there are 5,000 auditors and you can only find three of them. I would suggest that from the criminal point of view of companies committing offences, that should be amended to read, "who is either registered or entitled to be registered", words to that effect. Those are the only two points I really have to make, Mr Speaker. The only thing is I hope that the Board will be fairly reasonable in registering people because it seems to me that there are a great number of companies in Gibraltar and it also seems to me that it takes a lot of time to get accounts audited in many cases by established chartered accountants because of the volume of work and therefore although we welcome this we hope that the result of this will not be the opposite to what the Government hopes for and that is proper audited accounts coming in reasonable time to the Commissioner of Income Tax. My only two points are (a) that those people who are registered should be able to be auditors of companies and (b) that a company that appoints a person who is entitled to be exempted from registering does not commit an offence merely because the auditor, the Chartered Accountant, possibly does not know about the law or has not bothered to apply.

HON CHIEF MINISTER:

Mr Speaker, my understanding is that all the unchartered auditors that are presently accepted by the Commissioner of Income Tax normally as being experienced accountants will, of course, automatically go to Part II, exactly the same as the incident mentioned by the Leader of the Opposition of the dentists when they were required to be qualified, there were quite a number of them in fact there are one or two surviving, before the professional qualification was required to practice dentistry and therefore that part I think will present no problem at all. The latter part I think requires some looking into because if in fact there is going to be a fee in order to be able to be entered into the register perhaps it would not be fair for other people to be able to do it without payment of a fee. I agree that there should be some element of relief from this question of commission or an offence for a properly qualified chartered accountant even if they are not registered then there should be provision for his being registered after perhaps auditing, say, five companies with some regularity otherwise you would have a position where they would be exempt from paying whatever small fee is required to be registered. We will take those points at the Committee Stage, I think they are both acceptable which we are not taking at this meeting of the House.

MR SPEAKER:

Are there any other contributors. Does the Honourable Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I would like at this stage to mention one point and that is that with respect to the question of a part II registered auditor being allowed to be an auditor of an exempt company because it is simply a question of a signature, I think this needs to be looked at rather more closely since I think that in the case of an exempt company where that exempt company carries out the business of a bank or an insurance company that the signature of a Part II auditor may not necessarily be sufficient. It will depend on the nature of the business of the exempt company and we might want to look at the suggested amendment against that.

HON P J ISOLA:

If the Honourable Financial Secretary will give way. I understand that the main purpose of this Ordinance is to

allow people to qualify in effect by experience and put them in the register and put them in the same position as far as Gibraltar is concerned as people who were recognised by the Department of Trade as a result of the 1929 legislation in England. I think it is, frankly, giving them a status and taking it away from them if they are not trusted with particular operations.

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 subsequent meeting of the House.

THE INCOME TAX (AMENDMENT) (NO.2) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Chapter 76) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The aim of this Bill is to amend the penalty provisions in the Income Tax Ordinance in relation to breaches and offences committed against the Income Tax Qualifying Companies Rules, 1983, which were talked earlier in the proceedings. The existing tenancy provisions in Section 74 of the Income Tax Ordinance for a breach of a rule made under the Ordinance are inadequate for the purpose. For example, the maximum fine for a breach of rule 6 which prohibits a bank from passing its bearer shares of coupons without approval is only £50 whereas the fine for a similar offence under Section 12 of the Companies Taxation and Concessions Ordinance is £1,000. Matters will in this respect be remedied by the amendment proposed in Clause 4 of the Bill. It is also necessary to extend the penal provisions of Section 68 of the Income Tax Ordinance, to wilful false statement or incorrect information

supplied in connection with the administration of the Qualifying Companies Rules. This is covered by the amendment proposed to the Section in Clause 3. Members will find that the fine on conviction for an offence under Section 58 is £2,500 and the amount of tax which the person would be liable under the Ordinance. I should like to observe that the fine for a similar offence under Section 17 of the Companies Taxation and Concession Ordinance is in fact £500 on summary conviction and double the amount of tax or duty which would have been charged if the information given had been correct. Where incorrect information was given wilfully with intent to evade tax the fine is £1,000 and treble the amount of tax. It is not considered advisable or appropriate, Mr Speaker, to lower the penal provisions of the Income Tax Ordinance. It would not be proper to have in the same Ordinance different levels of fines for similar offences committed by different categories of persons. Another area of departure from the Companies Taxation and Concession Ordinance is with regard to the failure to supply information or evidence on request which will now be covered by the proposed new section 74(3)A in the Income Tax Ordinance. For consistency within the Ordinance the penalty will be £1,000 instead of £500 in the Companies Taxation and Concessions Ordinance. Given the recent introduction of the Companies Taxation and Concession Ordinance, it is not proposed to tax the penalty provision in that Ordinance for the time being. One cannot tamper too readily or too often with this type of legislation for it would prove to be counterproductive. A sense of permanency must be conveyed to outsiders by such legislation. However, further consideration will be given to a revision of its penalty provisions if and when it becomes necessary to amend that Ordinance in other respects. Mr Speaker, I move that the Bill be read a second time.

MR SPEAKER:

Does any Honourable Member wish to speak on the merits or general principles 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.

THE SUPPLEMENTARY APPROPRIATION (1983/84) (NO.2)
ORDINANCE, 1983.

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, 1984, 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 the sum £719,650 out of the Consolidated Fund. The purposes for which this sum is required are set out in Part I of the Schedule and detailed in the Consolidated Fund Schedule of Supplementary Estimates 1983/84 (No.2 of 1983/84) 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 £41,627 as set out in Part II of the Schedule of the Bill and detailed in the Improvement and Development Fund Schedule No.2 of Supplementary Estimates 1983/84, which was also tabled at the beginning of this meeting. I would like to highlight the three main areas of supplementary expenditure on the recurrent budget. Firstly, some £270,000 is required to meet the cost of further delivery of water by tanker from the United Kingdom. It is proposed to recover this cost by extending the application of the water surcharge from November, 1983, to April, 1984, as already announced in the House. Secondly, around £267,000 is required to cover the cost of running Waterport Power Station for the period October, 1983, to December, 1983. Funds amounting to just £86,000 are also sought to meet the cost of employing 5 extra police constables in connection with manning requirement at the frontier and to cover increases in essential overtime. These commitments are largely inter-related since increased overtime was necessary whilst new recruits completed their 3 months training period prior to commencing street duty on the 1st June, 1983. There was a total of 14 police constables being trained during this period. I should add, Mr Speaker, that having established the required police strength and fully absorb the change to a 40-hour week, it is expected that normally general police overtime expenditure will be sub-

stantially reduced. The additional funds required in the Improvement and Development Fund are largely revotes and I do not intend to explain in any detail other than what is in the schedule. Mr Speaker I commend the Bill to the House.

MR SPEAKER:

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

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

HON 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 Committee.

This was agreed to.

THE LOANS EMPOWERING (1981/86) (AMENDMENT)
ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Loans Empowering (1981/86) Ordinance, 1982 (No.29 of 1982) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be read a second time. Mr Speaker, the purpose of this Bill is simply to extend the period during which the Gibraltar Government may borrow money under the Loans Empowering (1981/86) Ordinance, 1982. It in no way affects the £10,000,000 ceiling on amounts to be borrowed. Sir, I will explain the reason for seeking this extension and take this opportunity of informing the House of the current position regarding both internal and external borrowing since the matter of borrowing

has been of particular concern to Members in the light of questions being asked and it affects progress, generally on development. The House will recall that the Loans Empowering Ordinance was enacted in October, 1982, thereby authorising the Government to proceed with its borrowing plans. It was hoped to raise £4,000,000 internally. To this end two tranches of local tax and estate duty free debentures have been issued, each of £1million, which have been almost fully subscribed. It is proposed to issue a third tranche at an appropriate stage. The timing and subscription period for this issue needs to be as flexible as possible. The borrowing deadline of the 31st March 1984 could be too short and therefore detrimental to the success of this issue. At the same time with the deferment of the closure date for HM Dockyard, persons receiving redundancy payments during 1984 will have an opportunity of investing in this loan with the proposed extension. It is proposed to raise the balance of the £10million, that is £6million, in the commercial market. Throughout the early part of this year, discussions were held with a number of commercial banks for a medium term floating rate sterling facility. But two factors delayed detailed negotiations. First, the Gibraltar Government was awaiting a reply from the ODA for the funding of two distillers at a cost of some £7million. If the ODA had not approved this project the nature of the loan to be negotiated with the bank would have been altered since financing of a distiller project, unlike other capital development projects like housing, for example, could have been arranged in a package with included export credit finance. In the event, the project was approved by the ODA on the 26th April, 1983. This, therefore, cleared the way for negotiating a loan on straight commercial terms for priority projects, notably housing. This brings me to the second point. By this time developments concerning the future of the dockyard were reaching a critical stage and the Gibraltar Government considered it prudent to await the course of final decisions before entering into a major loan agreement. These delays, Mr Speaker, also made the March, 1984, deadline unrealistic. The Gibraltar Government needs some flexibility when deciding on actual drawdown for a loan and this will be facilitated by the proposed extension to March, 1985. I would add that our loan negotiations at present are at an advanced stage and hopefully should be completed by the end of next month. I should point out, Mr Speaker, that despite our economic difficulties it is heartening to note that a fair number of competitive offers have been made indicating a renewed sense of confidence. I hope that we shall soon successfully conclude an agreement to enable local development projects to proceed and help revive activity in the construction industry. I trust that the Members will have appreciated the reasons which I have detailed for the proposed extension. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, I think the arguments that have been put by the Financial and Development Secretary by the Government needs the flexibility of extra time are valid enough. What I think is not explained is why there should be a deadline at all. Why should, in fact, the Government have to borrow a certain amount of money before a certain amount of time if already they have brought the constraint of having a ceiling above which they cannot go and I would like an explanation on that.

MR SPEAKER:

Any other contributor? Perhaps then the Honourable Member would reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, perhaps I should explain that prior to presenting a Bill to this House for the purposes of borrowing, the Gibraltar Government had to make a case to Her Majesty's Government regarding the amount it proposes to borrow over a particular period. In doing so, it projects its revenue position and its projections generally, for the economy and attempts to put a case for a particular amount hopefully satisfying Her Majesty's Government that the amount to be borrowed will be adequately serviced. This is a requirement under the Constitution and in the case of the 1981/86 Ordinance the proposal for a ceiling of £10million was accepted, I admit that there were delays on the part of Her Majesty's Government in agreeing to this and this was stated at the time, but in looking at the mechanics of how loans would be drawn and how they felt that we could or could not service them depending on fluctuations in interest rates, the course of the economy, etc, it was generally agreed that the amount to be taken would be borrowed before a certain date. The criteria for that is not specifically stated anywhere but I imagine that it reflects two things. One is to inject a sense of incentive or urgency about actually proceeding with the borrowing. I would imagine that the authority to borrow is not simply consent but also a wish to see that that borrowing is actually effected. But I agree that the crucial factor is what is the amount that should be borrowed and that it should be for the Gibraltar Government

to decide then how and when it does it. I take the point and I will take note to see that when we next submit our case for borrowing in the future whether in fact this particular "constraint" I would put it at this stage is an actual requirement or simply an administrative measure.

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.

MR SPEAKER:

We will now recess for tea and when we come back we will deal with the Second Reading of the Pensions (House of Assembly) Ordinance.

The House recessed at 5.25 pm.

The House resumed at 6.00 pm.

THE PENSIONS (HOUSE OF ASSEMBLY) (AMENDMENT) ORDINANCE,
1983 - CONTINUATION OF SECOND READING

MR SPEAKER:

I imagine that the House is now able to proceed with the continuation of the Second Reading of the Pensions (House of Assembly) (Amendment) Ordinance, 1983. Mr Isola, you have the floor.

HON P J ISOLA:

I am grateful to the Financial and Development Secretary for letting me have a copy of his statement which has been most helpful in enabling us to understand this particular Bill. Mr Speaker, this Bill aims to give an elected member of the House who is injured or dies in the course of duty, a gratuity and a pension and we are not, on this side of the House, against this principle and we propose to support the Bill. However, we feel that we have to be extremely careful and this was one of the reasons why I wanted to see the statement of the Financial and Development Secretary, we have to be

extremely careful in this sort of legislation because the affected parties are, in fact, Members of this House and we do have a Member who could be eligible, I presume, under this Bill at the moment. I don't know whether because of that I ought to abstain because my firm is in fact conducting proceedings on his behalf for injuries that he received in Gibraltar resulting from an accident. There is one point I would like to make on the general principle of the Bill and that is why I want to know about the Civil Service. I feel that elected members should be on a par with the Civil Service, the same principles should apply, and the question I asked the Financial and Development Secretary in the Lobby which I repeat here because I don't think he was very sure about it is if there is any contributory element in the eligibility of a civil servant who is injured, in getting a pension from the Government. If there is so it should be with us, obviously. The second point is, and this is a bigger problem because we are not exactly in the same situation. Mr Speaker, I must say I was misled a bit by the explanatory memorandum. When I read the Bill it really said what I thought it should say. Because a civil servant, putting death to one side, who is retired as a result of injury is, in fact, retired from the public service in which he would have continued to be if it hadn't been for the injury. With Members of the House of Assembly I don't think it is the same thing. You cannot call it retirement because a Member of the House of Assembly doesn't retire, he is not re-elected. But actually the wording in the Bill is the appropriate one because the Bill does not talk of retirement from the House but talks of ceasing to be a Member of the House and his ceasing to be an elected member is or was necessitated or materially accelerated by the injury or decease. I don't know whether the Bill needs amending because, for example, what is the position of an elected member who is injured in the exercise of his duty but ceases to be an elected member because the House has been dissolved? He hasn't ceased to be an elected member because of his injury but because the House has been dissolved and the Bill paragraph (8) it says "he is ceasing to be an elected member". If he is killed, and that is a point I want to make as well, by the way, if he is killed or dies as a result within 7 years, supposing when he dies he is no longer an elected member I presume he still benefits from it. I thought that would be the case, that is fine. But if he is injured and cannot discharge his duty and ceases to be an elected member because of that, then the situation is clear. But if he ceases to be an elected member because the House has been dissolved then I think he doesn't get an entitlement, or he might not.

HON CHIEF MINISTER:

Not if it happens when the House has ceased, of course.

HON P J ISOLA:

No, if he had the injury under paragraph 8b(1d) his ceasing to be an elected member is or was necessitated or materially accelerated by the injury or disease. The way that I read that is that he has ceased to be an elected member, ie he has resigned.

HON ATTORNEY-GENERAL:

If the Honourable Member will give way. The way I interpret this is that this question one asks oneself is as a matter of fact has he ceased to be an elected member and I don't see that it is material how he ceases to be. He might either resign during office or he may cease to be an elected member on dissolution but the next point that has to be asked in the affirmative is what is the reason why he ceased or a substantial reason why he ceased to the fact that he has been injured. If the answer to that is yes then the spirit is that he is entitled to a pension and this should give effect to that intention I think.

HON P J ISOLA:

A civil servant is boarded out, as it were; this is what happens, I believe, he retires from the civil service. An elected member of the House, in our view should cease to be an elected member as a result of the injury. I am not trying to suggest, Mr Speaker, that there should be a resignation but I think it can be put in such a way that it happens before but it seems to us that the effective criteria must surely be that he has ceased to be an elected member, that he has resigned. In the case of the civil service he has been retired, in the case of an elected Member it has to be a resignation. This would seem to me to be the way of doing it and I think it is academic but I think in the future it is of some importance. The unfortunate thing in our system, Mr Speaker, is of course, that if it happens to an Opposition Member, it doesn't necessarily bring that much of a problem. If it happens to a Government Member, of course, it does bring a problem, we recognise this, and the problem is that there has to be a by-election. I think, happily, in the circumstances of this Bill both sides can be met because of the fact that, for example, this House expires anyway on February 28th. Another point,

Mr Speaker, that I would like the Honourable and Learned Attorney-General to consider and which we think is very difficult but I think there should be an attempt, to a definition of what is meant by the discharge of his duty as an elected member. There should be a clause defining the duty. I say this because the Bill talks of elected members, it doesn't talk of Ministers and Opposition, it is an elected member, it talks about that. For example, if I am talking to a constituent about a housing problem or rather if my Honourable and Learned Friend here is talking to a constituent about a housing problem and a car whips by and knocks him over and injures him, was he discharging his duty? Limitations to be put to the definition of discharging his duty because an elected member, I can think of many, many situations when he is discharging his duty as an elected member, not necessarily ministerially, any elected member, and I think there should be an attempt, not easy, but we think there should be an attempt to define what discharge of duty is in the case of an elected member. I should imagine there is a definition in the civil service, I presume, it may not be difficult to conjure but I think it should be there. Those are the two main points that we have on the Bill and because we are voting ourselves in effect this sort of pension it is important that the precedent of the civil service should be there and it should be in accordance with those principles. It is important that the distinction between the civil service and elected members should be recognised in the Bill and that is that in the Civil Service you are boarded out, in the House of Assembly it has to be in effect a resignation from the House, ceasing to be a member, not as a result of the dissolution of the House. I am not quite sure how the mechanics go on that but this would seem to us to be necessary. Mr Speaker, it is impossible for me to address the House on the various impairments and the percentages and all that, I am afraid we know nothing about it. We are supporting the Bill and the notion of giving some compensation to an elected Member who in the course of his public duties is injured or is killed and we accordingly support the Bill.

MR SPEAKER:

Does any other Member wish to contribute to the debate on the Second Reading of this Bill?

HON CHIEF MINISTER:

We have this debate split into two sessions. I would like to say a few words in regard to what the Leader of the Opposition has said. I confirm that we have to be very careful and I said so at the beginning because we are concerned. I confirm that

this Bill has not come to the House until other matters pending with the service have been cleared which I wanted to because I did not want to be in advance of what was pending regarding the service, that is nothing to do with this Bill. I also confirm that the retrospective element of it has been cleared with the ODA in which pensions is not an entirely defined domestic matter, it is a reserved matter and the text of it and the application of it has been cleared with the Pensions Department of the ODA.

HON ATTORNEY-GENERAL:

Mr Speaker, the point as to how one defined the duty of a Member of Parliament is one which we will certainly look at in Committee it is a point we had already considered, actually in preparing this Bill, it is not an easy matter to define. There are two ways to approach a definition one is to leave it to be developed case by case, as it were, without trying to define the words beyond their ordinary meaning. The other way is to try and identify and take the various limitations on what consists of duty. It is not as easy a matter, of course, as it is in the case of the public service because public servants like most people in ordinary employment have a set job, 9 to 5 or quarter to nine to quarter past five and going to and from their place of employment, whereas the nature of the work of a Member of the House is of course quite different. But that is something that we can look at in Committee. I think the point identified by the Honourable and Learned Leader of the Opposition in relation to when one becomes entitled to and what was the cause that gives rise to the entitlement to a pension is one which we ought to look at in detail in Committee, but I think the spirit or the intent for the purpose of the principles of the Bill are clear enough. In other words, we are sticking a formula that will entitle a person to a pension if he has to leave public life because of injury. We will look at that and make sure it is tied up properly. The third point I think I can confirm that the principle of calculating the impairment formula is based on the public service principle, it is taken from the public service principle.

HON. FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I would like to refer to the first point raised by the Honourable and Learned Leader of the Opposition and that is whether there is an element of contribution involved with the benefit. If we follow public service benefits precisely, there is no contributory element, that is my understanding of it specifically, except that in calculating the

salary or the allowance in the case of Members, the element of pension is obviously taken account of. Since allowances for Members of the House are linked to civil service salaries directly, then I think that the point is covered automatically in any case but I will check on that and I will report back. As the Honourable and Learned Attorney-General stated, we will also in Committee come back with clearer details on what should be the basis in terms of defining discharge of duties, and whether or not one should consider the aspects of dissolution and the impairment formula and I would hope, perhaps, to be able to give Members some examples of different lengths of service and what amount particular members would obtain on an assumed salary entitlement etc, to give you a factual basis for looking at the Bill as opposed to a discursive analysis of it. Mr Speaker, I commend the Bill.

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 subsequent meeting of the House.

HON CHIEF MINISTER:

Mr Speaker, I move that the Committee Stage of the Supreme Court (Amendment) Ordinance insofar as the clauses relating to women jury service are concerned be taken during the course of this sitting.

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 P J Isola
The Hon A T Ioddo
The Hon J B Perez
The Hon G T Restano
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Kull
The Hon E G Montado

The following Hon Members voted against.

The Hon J Bossano
The Hon A J Haynes
The Hon Major R J Peliza

The following Hon Members were absent from the Chamber.

The Hon I Abecasis
The Hon W T Scott

It was therefore resolved that Clauses 2 and 6 of the Supreme Court (Amendment) Bill, 1983 be taken at the Committee Stage of this meeting.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause. (1) the Imports and Exports (Amendment) Bill 1983; (2) the Law of Property (Amendment) Bill 1983; (3) the Control of Employment (Amendment) Bill 1983; (4) the Matrimonial Causes (Amendment) Bill 1983; (5) the Supreme Court (Amendment) Bill 1983; (6) the Traffic (Amendment) (No.3) Bill 1983; (7) the Public Health (Amendment) (No.3) Bill 1983; (8) the Elderly Persons Non-Contributory Pensions (Amendment) Bill 1983; (9) the Medical and Health (Amendment) Bill 1983; (10) the Income Tax (Amendment) (No.2) Bill 1983; (11) the Supplementary Appropriation (1983/84) (No.2) Bill 1983; and (12) the Lands Empowering (1981/1986) (Amendment) Bill 1983.

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1983.

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

Clause 3

HON P J ISOLA:

We objected at the last meeting of the House to the Government allowing duty free sales in the airport in respect of all those items that are in Clause 3 of the Bill and our objection was on the grounds that with the economic situation in Gibraltar at the moment the goods stated in that section are the goods that are sold by three quarters of Main Street and that it is unfair to allow one or two merchants in the duty free shops to

take the business of virtually a lot of the business in Main Street. We were told about the question of drinks but that is done by a consortium of the importers of drinks in Gibraltar. There is no consortium in the duty free shops and in fact from enquiries I have made from traders there is a feeling that to allow this is to discriminate unfairly against the general body of traders in Main Street and we will vote against this Bill but would ask Government to consider taking some of the items out of this section and not having virtually what is sold right down Main Street.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think I should honour an undertaking given by the Financial and Development Secretary at the time to Members of the Opposition, in particular to the Honourable and Gallant Major Peliza, where he did ask what would be the effect on revenue if the items in Clause 3, if the duty on those items were to be reduced to 5% elsewhere in town and not specifically in the duty free shops. The revenue that would be lost would be in the order £200,000. I should perhaps add that if one were to take that proposal to its logical conclusion, and I am not going to discuss the merits or demerits of it, but purely for information, if we were to reduce all the ad valorem to 5%, then the revenue loss would be close to £1million. The question as to whether or not a reduction should be carried out for selective items for the Main Street Traders, I think has to be considered in two different contexts. One is does the Opposition agree or not agree that we should have duty free shops. And I think that the report which I had at the time was that the Opposition, generally, favours the presence of duty free shops at the airport. If duty free shops are to operate and are to be attractive and may I add that their trade would not be as much as the Honourable and Learned Leader of the Opposition has stated, that is, to the effect that three quarters of Main Street would be at risk but that the trade in the duty free shops would be in respect of those persons who are leaving Gibraltar by air, therefore we have to look at it within its perspective. But when the Government in fact did reduce import duties in town, at the Budget, for selected items, we had complaints from the duty free shop operators that they were going to be out of business so a reduction in import duty in town would adversely affect them. If, on the other hand, we confer what is I think an internationally accepted facility by having an airport on which we have spent considerable sums of money and on which we pride ourselves as an airport of reasonable international standards but yet we deprive that facility of offering what is normally expected, then we are running very much against

the whole concept of having duty free shops. I think the decision is do we have duty free shops or do we not have duty free shops. If we have them there has to be a distinction. I accept that there will be an effect in town as a result. I don't think it is as large as it might appear. For example, if we go to the specific items. We did in fact, in fairness to Members opposite look at some particular cases and to quote one we did look at jewellery to see whether something could be done to be more specific about that. We find from all the discussions that we have held that a customer who is going to buy an expensive piece of jewellery will want to spend a reasonable amount of time over it, will want to see a fair range of items and that if the item involved is in thousands as opposed to being in terms of £20 or £30, he is not going to be materially put back by having to pay 5% or 12%. If he spends £5,000 or £5,600 for an item of that expense I don't think the point is particularly important. We therefore felt that there was no real case for altering any of the items in the schedule since we had to consider that not only are we providing a facility as such but as people in the departure lounge will have a limited time and therefore will not necessarily be saving all their expenditure for the last moment and undertaking a massive shopping spree within forty minutes prior to the departure of the plane. I wanted to provide the information which had been promised and I felt that it was a good opportunity, Mr Speaker, of perhaps explaining why the Government has, in considering the points made by the Opposition at the last meeting, decided not to alter the clause and pursue with the Bill as proposed.

HON P J ISOLA:

Mr Chairman, I think the Financial and Development Secretary for that explanation but I would point out to him that it is a very different situation in Gibraltar than in Gatwick, Zurich or anywhere else in the world where the people have the duty free facilities but you do not have shops just 100 yards away and therefore the £5,000 ring can be looked at in Main Street in comfort and collected in the duty free shop. I think that is a very big difference, with respect. The Financial and Development Secretary said it is a question of deciding whether we want duty free shops or not in Gibraltar. That is not the question that should be put because do we want duty free shops in everything when Gibraltar depends, or not Gibraltar, but a very significant part of the trade depends on what it sells in Main Street. Our answer would be no to that. We do not want a duty free shop at the airport in every item, for example, clothes like there is in Gatwick, you can buy clothes, you can buy toys, you can buy everything. We do not want that, that is the short answer to that. Now, in drinks, in the things that

are traditional, like drink, cigarettes, tobacco, it has got to be put, but the Government got over that problem having a consortium doing this. But here it is a completely different situation. And the reason why we have objected to it now in this day and age and the reason why the suggestion was made of putting 5% right through and that we find is a loss of £200,000 in revenue is because we know that as a result of the partial opening of the frontier local people are not buying things that they were buying when the frontier was closed. They prefer to spend it in Tivoli World or whatever. And Spaniards who come in are not able to buy and therefore you are talking of the tourist market with 70,000 or 40,000, I don't know what the figures are, that come to Gibraltar, you are giving them a facility that deprives trade of the crumbs that are made. That is the reason why we say this is the wrong time to put this measure in. It is going to give a benefit to one or two, I don't know what the number is, of Main Street traders as against 40 or 60. I don't know how many shops there are in Main Street but whatever is there is sold by a good 75% of traders in Main Street and what the Government is doing is providing a facility which they say ought to be there but which I am sure they have been pushed into providing because there was a lot of these items being sold in the departure lounge but subject to payment of duty, they are providing a duty free facility to a very small sector of Main Street at a time when the whole of Main Street requires some bolstering up. And if the Government is not prepared to reduce the duty because of the loss of revenue which could bring an upsurge, then it ought to be prepared not to create a situation itself which by granting a facility will mean a loss to Main Street and a loss to the competitive edge in Main Street. If you go into a particular one, they have got the duty free shop, who wins.

HON CHIEF MINISTER:

Mr Chairman, I remember very clearly when we first brought the original Bill to provide duty free for cigarettes and spirits at the airport, a former Member of the Opposition, Mr Chairman, Mr Caruana, said that we were bringing the end of business in Main Street. He painted a dreadful picture of everybody going bankrupt in Main Street because cigarettes and drinks were being sold at the airport. Well, it has been proved that that is not the case and it has also been proved that all the tobacco and all the drinks that leave Gibraltar do not leave by the duty free at the airport. I think what the Financial Secretary has said looked at from another angle is that of course if we have an international airport it is small but you have to have facilities and that goes all along the line in tourism and in everything. But the nature of the

numbers of people who can do that is so limited that the number of goods that can be sold there are very limited. That is why in fact there are also limits in the brands that you can get there of cigarettes and so on because they cannot stock too much. At the same time we have to remember that there are a lot of goods which are being sold for export which are paying even less duty than they would pay here because they are taken from the cubicles and a very substantial profit is done in a way because as the Financial Secretary has said anybody who is going to buy an item of jewellery does want to find what he likes and he is not going to buy it at the last moment at the airport and I cannot see why if in fact goods can be delivered duty free after purchase as was done before, I don't see why we should not have that facility at the airport. In fact, at present a considerable amount of business is being done to my knowledge of people buying expensive watches and expensive items of jewellery which are worn whilst they go elsewhere and they are escorted and seen out in order to make sure that they have not paid duty but that the goods do not come into Gibraltar so we already have got that facility and that is not going to make all that difference.

On a vote being taken on Clause 3 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 H J Zammitt
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon W T Scott
The Hon Dr R G Valarino

Clause 3 stood part of the Bill.

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If you will forgive me, Mr Chairman, I am not entirely familiar with the procedures and I thought there would be a stage where I could intervene. I would like to reply to a number of points raised by the Leader of the Opposition. I think we must not forget that excluding the consortium, the shops at the duty free area were put out to tender so everyone in Main Street was entitled to make his bid for a unit there. The second point is that when we are talking of the effect on trade, particularly with the effects of the frontier and Government considering reducing duties for the trade further, we have to bear in mind the trend in revenue. We notice that there hasn't been much of a reaction in terms of improved price levels following the reductions that we introduced at the time of the budget but leaving that aside the trend on import duties today reveals that we are already £2m below the estimates for the year so we have to look at a general reduction against that particular picture as well and if we are to look at the loss of expenditure because of the leakage into Spain which I think is serious and which is to my mind out of hand, I think before we entirely condemn the consumer we should also point a finger at the trader and ask him to make an effort and be a bit more aggressive and perhaps offer a better price and we might see a slight shift the other way round. But to go to the very last point, the Leader of the Opposition has mentioned that a large number of traders will be affected three quarters of Main Street is indeed many traders. We have had representations from only two traders and I notice that we have had nothing from the Chamber of Commerce.

MR SPEAKER:

We will go on with the other Bills.

THE LAW OF PROPERTY (AMENDMENT) BILL, 1983.

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

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

THE CONTROL OF EMPLOYMENT (AMENDMENT) BILL, 1983.

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

Clause 2

HON P J ISOLA:

Mr Chairman, we made our observations on this Bill and on the failings that we think it has and we thought the Government was going to consider the matter but I notice there are no amendments proposed. Are there any amendments proposed to the Bill?

HON ATTORNEY-GENERAL:

There are no amendments proposed to this measure which however far it does or does not go, it does go a certain distance, put it that way, but there are other proposals which have in fact been drafted and will be then put forward to Government very shortly. The fact of the matter is that this Bill goes a certain distance, it is recognised that there are other areas that need looking at. I should be quite clear on this because on particular other area has already been looked at officials level.

HON P J ISOLA:

Mr Speaker, the main complaint from this side of the House about this was (a) that there was a need to possibly make the worker himself liable to a penalty because my information is that there is quite a large flow of workers from Spain doing work in Gibraltar in different places, in private houses and so forth, and they are committing no offence, that is the reality, and there should be the question of the worker or alternatively the person who receives the benefit from the worker, the person who is buying the service as opposed to the person who employs the worker because if the worker is employed by a company in Spain you cannot do anything about it but the person who is receiving the benefit should be also included. We find two serious failings in this Bill which we mentioned in the House. The Honourable and Learned the Attorney-General says he is bringing some legislation on the matter, well, we look forward with interest to it.

HON ATTORNEY-GENERAL:

There are several proposals which are being prepared at an official level which have yet to be put to Government and considered by Government. May I just make one other point on the matter and that is so far as people who come in and work are concerned the person who employs the person coming in I think can be the subject of a prosecution because after all

they will be party to an offence. They might be the subject of a prosecution, of course you will have to prove that they knew that there wasn't a work permit which may not be easy. I think it should also be recognised that there are other difficult aspects of this matter because while it may be possible from time to time to identify somebody who has come and worked it is by no means always possible to do that but having said that I nevertheless recognise that if one can identify even some of the people it is better to take some action than no action and that will have a deterrent effect.

HON CHIEF MINISTER:

I think it was mentioned last time that it is against the International Labour Convention to fine anybody for working or rather for going to work because otherwise a lot of people might be guilty

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

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

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

THE MATRIMONIAL CAUSES (AMENDMENT) BILL, 1985.

Clause 1

HON P J ISOLA:

Mr Speaker, I am going to rise on this one and then I shall forever hold my peace. I refer to Clause 1 (2) which says that the Ordinance shall come into operation on a date to be appointed by the Governor by notice published in the Gazette. I would like to ask the Government this question. It is a comparatively easy matter to draft the Matrimonial Causes Bill, well, not easy I appreciate that it is based on the English Act, but the main thrust of the report of the Select Committee on Matrimonial Causes and which was emphasised by all those who supported the Bill to no mean extent by my Honourable Friend Mr Loddo, Mr Scott, Mr Brian Perez was that if marriages were finished they were broken down, they are finished but the problem that had to be tackled was before they go into marriage, marriage guidance, prepare people for marriage, make it difficult to marry unless the right conditions are there and the Select Committee made recommendations about marriage guidance and so forth. What I would like to say is that we should not rush into passing one part of the legislation ie enabling people to get divorced easily without having

available and ready to operate the other part which was emphasised so much by members who supported the report of the Select Committee i.e. of getting people ready for marriage, marriage guidance and so forth. The question I want to ask is have Government any announcement to make about that aspect of the Select Committee report about marriage counselling and the other one is will the Government consider not putting this Bill into effect until such time as they are in a position to put marriage guidance and so forth, the recommendations of the Select Committee into effect. If both go together then surely both should start together if it is to bring the success which I am sure it will not bring but which the members of the Select Committee were confident it would bring.

HON ATTORNEY-GENERAL:

Subclause (2) of Clause 1 is of course to select the right moment in which to introduce the measure that is the main point of it. I am not in a position at the moment to give the answer which the Honourable Member wants to hear but I am quite sure it is a matter which will be considered by Government in relation to the timing of the commencement of the Ordinance. I happen to know as a matter of fact that outside the Government there is especially one group which has been actively looking at this aspect of the whole business of matrimonial causes and I am sure the Honourable and Learned the Leader of the Opposition may be aware of that too. There is another reason why the timing of this is important and that is because there are consequential proposals which will be made in relation to lower court proceedings. In England there was a period of, I think, something like seven years between the introduction of the Divorce Reform legislation and the completion of the carrying into effect of its various provisions.

HON CHIEF MINISTER:

Mr Chairman, first of all, I know formally that there are two groups, one big group and one small group in the Christian denomination offering marriage counselling and my understanding was that we were strengthening the Family Care Unit in order to provide this counselling some of which is being done now actually as part of the Family Care Unit and certainly before we implement the Ordinance we will come to this House with definite proposals or perhaps with information of what is happening in this respect. I think the Honourable Minister might say something on the question of the Family Care Unit.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I have always made it a point of being absent when this particular Bill has come up but since the Chief Minister mentioned the question of the social worker side of my department, from what we gather, Sir, in the United Kingdom most of the counselling is done by voluntary bodies. There is a back-up service maybe on the clerical side but most of the counselling is done by voluntary bodies and my Director has already been in contact with certain religious bodies. The last time it was with the Bishop and we gather that the Bishop has already started a course and certain directions in providing marriage counselling and I think there is going to be an approach to other churches and other religious bodies. If we adopt the same system as in the UK the information I have is that almost everything is done on a voluntary basis. But if it is the wish of the House and the Government that my Department should deal with this then it would be a question of getting the right people and it is going to be an expensive business.

HON CHIEF MINISTER:

I think that what happens is that there is not enough contact between the voluntary counselling and the Family Care Unit and we should see that these come together.

HON F J ISOLA:

I am grateful for what the Minister for Labour has said. I appreciate it may be expensive but what I am saying is really that the Bill and the report was accepted by those it was accepted on the basis that all this backup which the Select Committee considered so important would be there and all I am asking is although I don't agree with the Bill, what I am asking is that if it is going to be given a chance to succeed in the way that those who supported it confidently hoped it would, then the backup which is recommended in the report and which is accepted by the House should be there.

HON MAJOR F J DELLIPIANI:

Mr Chairman, if it is accepted that marriage counselling will be done by voluntary bodies and it appears that certainly the main church of Gibraltar is going that way in actually training its own people to do it, we are though hard pressed quite prepared to do anything that we can towards any backup required.

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

Clauses 2 to 6 were agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

I move the deletion from the new section 23(2) on page 78 of the expression "10(2)(c)" and substitution of "10(3)(c)". It is a typographical error.

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

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

Clause 10

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the amendment in my name in Clause 10 to insert after the word "desertion of cruelty" on page 81, the word "of the wife". This was a grammatical error.

Mr Speaker put the question in the terms of the Hon the Attorney General amendment which was resolved in the affirmative and Clause 10, as amended, was agreed to and stood part of the Bill.

Clauses 11 to 14 were agreed to and stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

By way of explanation to the House, Mr Chairman, this Section repeals Section 48 of the Matrimonial Causes Ordinance which provides the remedy of damages for adultery and that section is still formally on the statute book. It has been drawn to my attention that although that section was never formally repealed as such there was a provision in 1972 in Gibraltar in another Ordinance abolishing damages for adultery. I still think there is a need to have this textual amendment on the book so I would not propose to omit this Clause from the Bill.

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

Clauses 16 to 19 were agreed to and stood part of the Bill.

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

THE SUPREME COURT (AMENDMENT) BILL, 1983.

Clause 1

HON ATTORNEY-GENERAL:

Sir, I move that this Clause be postponed to a subsequent meeting.

This was agreed to.

Clause 2

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

The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon P J Isola
The Hon G T Restano
The Hon H J Zammit

The following Hon Members abstained:

The Hon I Abecasis
The Hon J Bossano
The Hon D Hull
The Hon E G Montado

The following Hon Member was absent from the Chamber:

The Hon W T Scott

There being an equality of votes the motion was declared lost and Clause 2 did not stand part of the Bill.

Clauses 3, 4 and 5

HON ATTORNEY-GENERAL:

Sir, I move that Clauses 3, 4 and 5 be postponed to a subsequent meeting.

This was agreed to.

Clause 6

On a vote being taken on Clause 6 the following Hon Members voted in favour:

The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino

The following Hon Members voted against.

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon P J Isola
The Hon G T Restano
The Hon H J Zammit

The following Hon Members abstained.

The Hon I Abecasis
The Hon J Bossano
The Hon D Hull
The Hon E G Montado

The following Hon Member was absent from the Chamber.

The Hon W T Scott

There being an equality of votes the motion was declared lost and Clause 6 did not stand part of the Bill.

Clauses 7, 8, 9 and 10

HON ATTORNEY-GENERAL:

Sir, I move that Clauses 7, 8, 9 and 10 be postponed to a subsequent meeting.

This was agreed to.

The Long Title

HON ATTORNEY-GENERAL:

Sir, I move that the Long Title be postponed to a subsequent meeting.

This was agreed to.

THE PUBLIC HEALTH (AMENDMENT)(NO.3) BILL, 1983.

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

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

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS
(AMENDMENT) BILL, 1983

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

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

THE MEDICAL AND HEALTH (AMENDMENT) BILL, 1983.

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

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

THE INCOME TAX (AMENDMENT)(NO.2) BILL, 1983.

Clauses 1 to 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 (1983/84)(No.2) BILL, 1983

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

Schedule

Consolidated Fund Schedule of Supplementary Estimates, No.2
of 1983/84

Head 4, Electricity Undertaking

HON G T RESTANO:

Mr Chairman, the remarks say that this is for a period to December 1983, does this mean the beginning or the end of December?

HON DR R G VALARINO:

This period is covered from the beginning of October, 1983, until the 17th of December, 1983.

HON G T RESTANO:

Is the Minister satisfied with the position as it now stands?

HON DR R G VALARINO:

Mr Chairman, I am because as I mentioned in the House previously we are now advertising for a series of industrial jobs, in fact as from today, which is 26, and though we have made provision here up till the 17th of December I hope to speed up the advertising and the interviews etc, so that we shall be able to minimise the cost involved as much as possible.

HON G T RESTANO:

Mr Chairman, how on earth can the Minister say that he is satisfied when we have now reached £1million for costs to HSPE to run Waterport station because of Government's inability to do so. £1million, and the Minister has the effrontery to stand up and say that he is satisfied with the position.

HON DR R G VALARINO:

Mr Speaker, he asked me whether I was satisfied or not and this is the answer he got. On the £666,500, let me say that if the jobs had been industrialised and we had taken over Waterport, we would have saved just a half of that money. So the £266,500 is really a sum which is no higher than the sum envisaged for running the station with local labour is certainly not all that enormous.

HON G T RESTANO:

Can the Minister say why had they taken over the engines at the beginning it would only have cost them £½million. On what

does he base that statement?

HON DR R G VALARINO:

On the wages of our own men.

HON G T RESTANO:

But aren't those men at the Kings Bastion Station being paid all the time.

HON DR R G VALARINO:

The Honourable Member fails to realise that these are additional jobs for Waterport Power Station.

HON G T RESTANO:

Will he say how many extra jobs will have to be taken up to run both stations?

HON DR R G VALARINO:

I have just said it 26 industrial jobs and 6 non-industrial jobs.

HON G T RESTANO:

Can the Minister also justify why for the Electricity Department to run that station it needs 26 plus 6 whereas it is taking Hawker Siddeley 18 plus 6?

HON DR R G VALARINO:

Mr Chairman, Sir, in fact, if the Honourable Member will go back to question 264 of 1983, where I gave him the split-up of the personnel at Waterport in which I said there were 18, I mentioned that this was a skeleton staff and that these were the people we were paying for. I reiterate that this is a skeleton staff and that for the proper running of Waterport we need full manning of the station.

HON G T RESTANO:

Mr Chairman, the Minister said that the reason why there were only 18 was that the men were not doing the overhauls and in an earlier question in this House he said that the overhauls which were being carried out at the time were being carried out by 6 extra men. Where is the differential of the 6 extra men over and above that the department requires?

HON DR R G VALARINO:

In many areas, Sir, basically in cleaning and other sections of the Waterport Power Station but men that are now doing the 6,000 hour overhaul have been contracted but have nothing to do with this figure, Sir.

HON G T RESTANO:

The Minister said cleaning. Has no cleaning been done at the Station since November last year, is that what he is saying?

HON DR R G VALARINO:

No, Sir, certainly cleaning has been done. What we want to do is to get a permanent team for cleaning and to ensure that the Station is in top condition throughout and the engines continue to maintain the same progress that has been maintained all along.

HON G T RESTANO:

When does the Minister think that his department will take over the Power Station?

HON DR R G VALARINO:

Mr Chairman, Sir, this is a difficult question. Since the engines have been taken over by ourselves we have really taken over Waterport. The only thing is that we have not manned the station and there is a difference in this. The question was when are we going to take over Waterport? We have taken over Waterport.

HON G T RESTANO:

Yes, there is only one little detail, just £1million because the Government hasn't taken it over to run. When will it take it over to run it?

HON DR R G VALARINO:

Mr Chairman, Sir, we shall take it over to run it as soon as the posts have been advertised, we have suitable candidates and they are in post, it is as simple as that. But let me remind the Honourable Members that though this may be the money that we have spent to pay Hawker Siddeley to run the station for us during this period, this money could well in the end, as I said before here in the House, save us millions of pounds.

HON G T RESTANO:

And what about the training of the 26 men other than the

mechanical which has been advertised. What training, if any, have they received up to now and if they have received none so far what training will they get before the Government runs the Power Station?

HON DR R G VALARINO:

Mr Chairman, Sir, they have received no training so far because they have not been chosen, but if the Hon Member cares to look at his Hansard he will realise that I gave a comprehensive answer not so long ago.

HON G T RESTANO:

Is the Minister saying that the 26 new persons that are going to be employed, are those 26 going to go to the Waterport Power Station or are some of the staff of Kings Bastion going to go to the Waterport Power Station, and are included in those 26?

HON DR R G VALARINO:

There will be 26 industrial jobs at Waterport Power Station, this will be advertised, it could well be that some of these 26 jobs may come from Kings Bastion but the jobs will be advertised and it really is a matter for the interview board to decide whether these men should go to Waterport Power Station or not. This is a question which I cannot answer at the moment because the board is an impartial board and I have no influence at all over the board and it is a very confidential thing.

HON G T RESTANO:

Does the Department not have any policy on the matter? I am sure that the enquiry would benefit from the advice of the department if the department considers that there should be a completely new set of staff or whether some of the staff in the department already are sufficiently qualified and suitable.

HON DR R G VALARINO:

Mr Chairman, Sir, the policy of the department is that the people for the posts will be interviewed and really the most suitable persons will be chosen for the job.

HON G T RESTANO:

So automatically those employees at the King's Bastion station will not have first preference in taking the jobs at Waterport Power Station? Am I correct in assuming that?

HON DR R G VALARINO:

Mr Chairman, the first adverts for the posts will come from within the department and if there are any other required which are not selected from within Government they will come from outside. The first choice will be from King's Bastion.

HON G T RESTANO:

And will there be any reduction in King's Bastion now?

HON DR R G VALARINO:

No, Sir. There will be no reduction at King's Bastion and in fact I can guarantee the men at King's Bastion that they do not have to fear redundancy in any manner or form.

HON G T RESTANO:

But is the output of King's Bastion not considerably lower than it used to be? There are fewer engines, a lot of engines have been cannibalised, I think there are about only five left, isn't that correct, out of the 13?

HON DR R G VALARINO:

Mr Chairman, Sir, the engines are not cannibalised because they differ in size and production. The fact that there are less engines really means that the men there can do a more comprehensive job on the engines available.

HON G T RESTANO:

Am I correct in recalling that engines No 1 to No 8 are no longer operating?

HON DR R G VALARINO:

Yes, Sir.

HON G T RESTANO:

So, therefore, in a station which used to have 13 engines, take one away which went out of service many years ago, No 12, there are only 5 left and yet the complement, I think, of King's Bastion was for all the engines.

HON DR R G VALARINO:

Mr Speaker, Sir, the complement at King's Bastion was for King's Bastion. If the Honourable Member cares to remember, over a period of time No 1, 2, 3 and 4 engines were scrapped a long time ago, this is why we dropped in the skids, No 8 engine was scrapped as well, this is why we brought in the mounted diesel engines so therefore the main one remaining at KB South were engines 4 and I believe at the time, 7. The main engines were at King's Bastion North so, really, the main work of the labour force was still to do with King's Bastion North.

HON G T RESTANO:

Mr Chairman, I don't want to be misinterpreted in any way. I am not saying that there should be reductions within the staff at King's Bastion. Obviously, in my opinion they should have priority in going to Waterport but I seriously question whether King's Bastion requires the number of staff it does have bearing in mind the fact that Waterport Power Station is going to be producing at least 80% of the power for Gibraltar and King's Bastion which used to produce 100% of power to Gibraltar, plus the skids, is now only going to produce 20%. Why is there no reduction, why is there no saving?

HON J BOSSANO:

I don't think it is right that the House should get the impression that there is about to be a vast increase in staff in Waterport as a result of the Government employees being responsible for the running so perhaps the Minister can confirm two things. One, that the operational staff are having their hours reduced from 56 to 42 and that part of the number of jobs, are the result of more people being employed in lieu of overtime being paid where people are working 7 days they will go to 5. And can he also confirm that the maintenance staff that transfer to Waterport will not be replaced?

HON DR R G VALARINO:

Yes, in fact, Mr Chairman, the Honourable Member is right in both respects. What we are doing is moving from a 3-shift system to a 4-shift system.

HON G T RESTANO:

So therefore is the Minister confirming that the maintenance

staff is moving to Waterport and is not going to be replaced?

HON DR R G VALARINO:

Yes.

HON G T RESTANO:

Well then how can the Minister say that there will be no reductions at King's Bastion?

HON J BOSSANO:

I think that what the Minister was trying to say was that if in fact it materialised that somebody did not transfer to Waterport he would not be sacked as a result of being surplus at King's Bastion but I think that the understanding that there is between the staff and the management in spite of the fact that there are differences as to whether people should be permanently in Waterport or should in fact rotate between the two which is not an issue that we are discussing at the moment. The numbers involved are the same, that is, whether you have people taking turns in being in Waterport which is the staff view, or people being divided into two groups, some of which are permanent in Waterport and permanent in King's Bastion, which is the management view, the total of the two is the same. I think the position the Minister was referring to about nobody losing their jobs will be in the eventuality that if there are trained jobs required to do maintenance in Waterport and only nine people applied or were found suitable, then the 10 persons would not be sacked.

HON G T RESTANO:

Should I address my next question to the Hon Mr Bossano? Whether the maintenance groups, shall we say, work either at Waterport or are divided, surely each station would have to have its own budget so what I want to know is what reduction will there be at King's Bastion?

HON DR R G VALARINO:

Mr Chairman, Sir, I am afraid at the moment I do not have the necessary figures except I would like to make one comment. I cannot see how the Honourable Member has been able to ask all this as a result of a supplementary to meet the running costs of Waterport.

MR SPEAKER:

In fairness to the Honourable Member he wants to know details of the additional expenditure involved.

On a vote being taken on Head 4 - Electricity Undertaking, the following Hon Members voted in favour:

The Hon J Bossano
The Hon A J Canepa
The Hon F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon Dr R G Valarino
The A J Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against.

The Hon R J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano

The following Hon Members were absent from the Chamber.

The Hon I Abecasis
The Hon A J Haynes
The Hon J B Perez
The Hon W T Scott

Head 4 - Electricity Undertaking was accordingly passed.

Head 5 - Fire Service, was agreed to.

Head 8 - Housing, was agreed to.

Head 11 - Labour and Social Security, was agreed to.

Head 14 - Medical and Health Service.

HON G T RESTANO:

May I ask, I see that the remarks for this £10,000 says: "Underestimated and required to meet cost of unforeseen hotel expenses in respect of locums. I must admit I am always very suspicious of a £10,000 round figure, can the Minister give us

a breakdown of that.

HON J B PEREZ:

The £10,000 will take us to the end of the year because the incidence of locums has been higher than estimated and secondly we have a flat which had been set aside in the quarter adjoining St Bernard's which we are intending to use for locums this particular year, this is why you didn't see such an increase at Estimates time. What has happened was that unfortunately there was a fire in one of the flats there in which we housed the House Officer and we have had to move the House Officer until the repairs are carried out to this particular flat into the flat that we had earmarked for locums but the £10,000 is really to take us to the end of the year. There may be some money left over or it may well be that I may have to come to the House for extra money.

Head 14 - Medical and Health Services, was agreed to.

Head 15 - Police

HON A T LODDO:

Mr Chairman, the essential overtime-£60,000. Does this essential overtime refer to uniformed police or plain clothes police?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Uniformed police.

HON A T LODDO:

Mr Speaker, what have the uniformed police been doing to cost an extra £50,000, or what have we been getting for the £50,000?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I deliberately gave a reasonably detailed explanation of the Police Supplementary in the Second Reading because I felt that it did require explanation and if I may perhaps repeat it. The main element of the overtime relates to overtime necessary to cover for a total of 14 police constables who were recruited in relation to the manning of the frontier and had to be trained for a period of 3 months and whilst they were being trained, police had to be engaged on additional overtime to cover for the manning levels which had been agreed.

I did in fact point out towards the end that now that the police strength has been established in the context of its requirements for manning the frontier etc, the overtime bill for the general force - I am leaving aside special areas like for example CID and so on - but the bulk of the overtime has more than halved in the months of July and August and it is expected that this trend will be maintained. Whilst we have this abnormal increase which cannot be met from voted funds for the year we expect that if the trend that has been established since July is maintained, that in the next financial year we should see a lower level of expenditure on overtime.

HON G T RESTANO:

Do these officers get any on-call allowances?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not on call allowances specifically; Mr Chairman, I think they do receive special allowances but this is in respect of certain sections of the force like CID allowances, I think I can recall and so on, but there is no major expenditure bill in terms of allowances.

HON G T RESTANO:

It doesn't come under the essential overtime?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, that would not come under overtime, in fact, allowances may look a bit higher than what I have indicated because policemen do in fact get rent allowances but that is the main element of the allowance.

HON J BOSSANO:

Mr Speaker, can the Honourable Member say why we need the 5 extra policemen?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir, the additional requirement was identified shortly after the frontier was opened and a total of 14 extra police constables were recruited as a result of that. There was provision for 9 of these and it was hoped that with savings

from the vote the additional 5 could be covered throughout the financial year but this is not the case and therefore we are now providing funds. This is on the basis of what has been considered to be the required police strength in the light of the partial opening of the frontier.

HON J BOSSANO:

But is it not the case Mr Speaker, that there is an agreement going back for many years which the Government has not chosen to implement which provides for a number of jobs to be civilianised that is to be done by non-police officers and that would release people who are doing other things which doesn't require the grade or the salary of the policeman and have officers to do police duties.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, my understanding of the position is that there have been discussions over a long period of time regarding civilianisation of certain posts in the police but I don't think there is an agreement.

HON J BOSSANO:

I think if the Honourable Member will check he will find two things (a) that there is an agreement going back many years which the Government has not chosen to implement and that in fact the Police Association itself accepts that agreement and was not in a position to support an increase in the force precisely because of the existence of other agreements and that the other associations that negotiate for other public servants have got outstanding claims precisely so that the jobs concerned can come to their members. Will he check these facts?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think that if the Government has not pursued a particular scheme I do not think they have agreed to it in the sense that the Honourable Member has put forward. An agreement may have been reached, I have no knowledge of this, but an agreement may have been reached in principle but the fact that it has not been implemented must mean that the Government no longer agrees with it.

HON J BOSSANO:

What it means is that the Commissioner doesn't want to see it implemented, that is what it means, and I am saying that the Government as an employer entered into an agreement with the Police Association as a representative of its employees where both sides accepted on the implementation of parity that the areas of employment within the Police Department that could be done effectively by people who didn't require the training as Police Officers should in fact be identified and that would release more police officers from police duties. The Commissioner may feel that it is more important to have somebody typing 14 hours a week who theoretically in an emergency can then be put on duty as well but since we are paying for it I think that we should be given the explanations irrespective of what the Commissioner feels about it and I can assure the members that I know what I am talking about.

HON CHIEF MINISTER:

I would like to say, Mr Chairman, that in the monthly meetings that I now have with the Commissioner and the Governor, the question of the civilianisation of certain identified posts, has come up. I don't know whether the Honourable Member when he is speaking of the agreement is referring also to the Immigration Department or not, on the other one I have certainly represented on many occasions to the Deputy Governor and the Governor in the presence of the Commissioner that there must be progress in the civilianisation of these posts. There have been certain reasons given why this has not happened but we certainly have not given up the idea that we must have these jobs civilianised.

HON P J ISOLA:

The Honourable Mr Bossano can only blame himself if they have not civilianised so far. After saying all that he is going to do I am sure he put panic down the spine of the Commissioner of Police who suddenly decided that he needed big forces to cope with the things that were likely to happen. But seriously, Mr Speaker, I cannot understand this business of the opening of the frontier, it has been opening for four years. When Lisbon was signed in April 1950, the whole dockyard was closed down, all the police were unleashed on the civilian side and that meant that everything would be right for the opening of the frontier. When it was going to open in 1952, we were told that the Police were ready to meet it. Now we are told that the frontier partially opened in December and they need 19 policemen. I would like on this side of the House, to be told

one day, for the Honourable the Financial Secretary and the Honourable Attorney-General to come to this House and say: "We need five more policemen because we are going to enforce the litter laws, the dog laws and any other laws that they never seem to have people to enforce". When the frontier opened suddenly you need six policemen, the airport, they cannot send a policeman, the things that we want and are required, they don't seem to have the staff. But we are always voting more and more money for more and more police constables and the Commissioner doesn't do what this House wants to do that provides him with the money. We are getting to the stage, Mr Speaker, where there is going to be a constitutional crisis, if I may say so, because the House may not wish to grant provision to do the things that the Commissioner wants to do and which the public requires to be done in Gibraltar, the litter laws, keeping Gibraltar tidy, policemen on the beach, the things that a community requires to be done and it is not being done. Can't we protest, is there nothing we can do to impress upon the Commissioner of Police our dissatisfaction on the emphasis in police work.

HON ATTORNEY-GENERAL:

I think there are two elements to this and on the one hand I don't think it is a popular job and I am not saying that that is the reason for not doing it, I think there is a need to concentrate more on issuing summonses for litter. On the other hand, however, in fairness to the police, I should make it clear that they have been taking summonses to Court. We are hoping to issue more summonses and take people to court and what has been happening and it can be shown to be so specifically is that the penalties being issued by the court are gradually increasing. For example if one goes back about a year a number of people who were being prosecuted were being discharged without conviction but now the penalties are building up. I am not for a moment suggesting that nothing more needs to be done, the average penalty, I think, is now about £30. They have been doing that and it is an area which will be concentrated on more in the future. I do not think it is entirely fair to suppose that they have done nothing at all about litter. Quite candidly it isn't a popular job and I think it is necessary for the Police to make a special effort to tackle the problem.

HON MAJOR R J PELIZA:

Wouldn't the Attorney-General agree that it is more important to have prevention rather than fines. I don't think the fine is a deterrent, what is a deterrent is to see the policeman on

the beat and not see them going around in Panda cars all over the place and motor cycles, that is not going to stop that kind of thing that we are in this House trying to impress upon whoever is responsible for the police to do. I think that fines themselves will not change things, what will change is if the police go down and do the beat on the streets, if we see them moving about and literally telling people "Don't drop that paper there", not a fine but to see that the presence of the police will be a deterrent.

HON ATTORNEY-GENERAL:

I think it is really a combined effort but certainly the starting point is for people to know that if they drop something on the street at least the Constable on duty will come up and say "Here is a summons". That is the starting point and that in itself, I am sure, has a strong deterrent effect. And even if only a few people are taken to court and fined the fact that people are stopped does have a strong deterrent effect. But it is a combined effort and when they go to court it is discouraging if they do not get the penalties which one might think are appropriate but the position is statistically in the Court that the penalties are coming up gradually which is what you might expect because if you remember about 1½ years perhaps a little bit more, the penalties were quite substantially increased. I think in the nature of the court process it takes a while for the court to start enforcing that. But it is clear now that the Magistrates Court are imposing higher penalties, I think it is combined effort but certainly the starting point is the police on the beat, I agree.

HON J BOSSANO:

Mr Speaker, when in fact the establishment is increased, is it increased as it is for other civil servants subject to eventual staff inspection?

HON ATTORNEY-GENERAL:

I will have to look into that but I think the answer may be not necessarily.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I would like to add one more point. Part of the increase in the numbers recruited since 1981 or early 1982 was the result of the progressive reduction in the working week of policemen from 48 to 40 hours. It has been over a period of

two years and this has increased the establishment by a fair number.

On a vote being taken on Head 15 - Police Subhead 1 - Personal Emoluments, the following Hon Members voted in favour:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon R J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Kestano
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon E G Montado

The following Hon Member abstained.

The Hon J Bossano

The following Hon Members were absent from the chamber.

The Hon I Abecasis
The Hon W T Scott

Head 15 - Police, was accordingly passed.

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

Head 22 - Secretariat, was agreed to.

Head 26 - Treasury

HON J BOSSANO:

Mr Speaker, could I ask whether any of this is in fact to pay for the presentation on Access Television that Mr Michael Casey is putting on.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not the amount that has been requested in the Schedule before you.

HON J BOSSANO:

Is the Government saying that there will be a further supplementary in future to pay for that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker because it requires a visit by Mr Casey to Gibraltar so we have to pay for the necessary expenses.

HON J BOSSANO:

Does the Government think it might be possible to include a slightly extra amount the next time they come round so as to print 15 copies of the report instead of just having one we all have to share?

HON P J ISOLA:

Mr Speaker, when we voted £20,000 for this we were told it might be a little more but this is more than 50% more, what is the explanation for £13,100 addition. Can it be broken up?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, there are two elements to this, in fact, the £20,000 was considered to be a considerably close estimate of the cost of the consultancy at the time and we did say that it might be a bit more. It was in fact a little bit more by £5,000 and in addition to that we did engage Mr Casey himself on additional work both in Gibraltar and in London when the question of the future of the Dockyard was being discussed at a political level between the Chief Minister and the Prime Minister.

HON P J ISOLA:

So Mr Casey was actually in London available and that cost us £8,000?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The additional cost of Mr Casey was just under £8,000. The services of Mr Casey in London did not cost £8,000 on their own, this includes other additional visits he has made to Gibraltar and additional work which he has logged in the United Kingdom but part of that is in respect of fees which

he charged whilst he was available for providing advice to the Government when negotiations were being undertaken at a political level.

HON P J ISOLA:

What was the rate of his fee? What are we talking about, the same as the Chairman of the Steering Committee or a little less, does he know?

HON CHIEF MINISTER:

Mr Chairman, I would like to explain that throughout our two visits to London, Mr Casey was available to us, in fact, he was present at the first general talks which were presided over by Baroness Young, he was present there with the Gibraltar team to be available for advice. He was present continuously and very long late hours in discussing the progress of the talks throughout our two visits to London. I would like to say that certainly it strengthened our position and his advice was very helpful.

HON P J ISOLA:

Does Sir Trevor Lloyd-Hughes get a cut in this?

HON CHIEF MINISTER:

Part of the consultancy was from Trevor Lloyd Hughes and Partners of which he was mainly the person and later he continued to do some work directly for us.

HON J BOSSANO:

Is the Chief Minister saying in fact that Mr Casey's views have changed since the report?

HON CHIEF MINISTER:

I have not said anything of the kind. All I have said is that he was very helpful to us in the course of our discussion throughout the period both in Gibraltar and in the United Kingdom and it was our consultants, we could ask him questions not only on the report but on a variety of matters connected with the question of the commercialisation of the dockyard, he was at all hours available, and we had our own person to give us advice, tactics, approach, letters, memoranda, all those things in

those intensive days.

HON J BOSSANO:

Then surely, Mr Speaker, the advice that the Honourable and Learned Chief Minister has had from Mr Casey, is in fact not to accept the Appledore package because in fact Mr Casey says that the Appledore package is not viable that it requires far more time and far more naval work and I am asking whether in fact we are paying more money to get different advice now because it is not compatible with the decision.

HON CHIEF MINISTER:

We certainly obtained far more naval work than was originally offered.

HON J BOSSANO:

Well, I think the Honourable Member can only satisfy the House of that when he is able to explain what naval work he has got. At the moment all he has said is he has had £14m and one doesn't know how much work that is until he is able to explain to the House, if he knows, how much is going to be charged for the naval work because £14m can mean one ship or 14 ships depending on how much they are spending on each.

HON CHIEF MINISTER:

There were two differences from the original offer of £11m, to £14m (a) the original offer of £11m was a static figure, (b) £14m was at July's price which means £14m worth of work as it then was. That is spread over three years and, mainly Royal Fleet Auxiliary work apart from the small craft which would be leaving £½m or a £1m a year for three years.

HON J BOSSANO:

Mr Speaker, I appreciate that information because it is new information, but if he says it is July prices we don't know, nobody knows, it is not even in the report what the price is. Certainly I can assure the Honourable Member that Appledore was not able to tell the Trades Council what it was because they didn't know what the £14m meant. If he knows and if he can tell the House then it is certainly useful to know it.

HON CHIEF MINISTER:

What is meant was as I understood it, and we were making broad decisions, is that the Navy was prepared to spend during the first three years of operation naval work to the value of £14m at June/July prices to get the commercialisation off the ground. It is as simple as that. We didn't go into prices of particular items or particular ships. It was £14m worth of work expected to be given to the operators by the Royal Navy.

HON J BOSSANO:

In the original Appledore proposals, Mr Speaker, Appledore said they would be charging the Navy £14 an hour, if the Honourable Member remembers.

HON CHIEF MINISTER:

I don't remember.

HON J BOSSANO:

I do assure him that that is what it says, £14 an hour would be charged to the Navy as opposed to £6 an hour being charged to a private ship owner. If one is given £14m of work at £14 an hour that is a million man hours. In the second report Appledore said that they were going to be doing so much naval work that in fact the man hours is now for some unknown reason no longer desegregated one does not know how much now in the second proposal £14m or £11m as it was then of naval work means because one can find out how it means per hour if one gets the two figures but not if one says there are 600,000 hours man hours of work on both commercial ships and naval ships and you don't know how much it is for a naval ship and how much it is for a commercial ship, you don't know how much an hour is being charged. I think it is a crucial element in the whole thing. We have been told here that a decision has been taken and yet presumably the advisability of accepting something or rejecting it for which we have paid to have independent advice, must require that answers on things like that are forthcoming, otherwise the figures are meaningless. If the Honourable Member is saying at July prices, does it mean at the price charged in July this year by the Gibraltar Naval Dockyard?

HON CHIEF MINISTER:

Let me be quite clear about that because I made the point myself and I know exactly what I said and I know exactly what

I got and that is the £11m that were on offer, I suggested that by the time they were accepted it would be very little work. If the work was spread over 3 years on the third year there would be very little money left because the money would have been - pardon?

HON J BOSSANO:

Because the thing was at fixed prices.

HON CHIEF MINISTER:

That's right. And all I said was that as prices would go up over the years the value of the money that was offered should be at the prices at the time when the offer was being made. It follows that any increase in prices would be an increase in the contribution not only from £11m to £14m but that the £14m be considered as at the time we were talking but not as at the time when they would be spent so there was the element of the normal increase in cost that is suffered by inflation and by other things, my understanding was that they would make work available which in July 1983 would have got £14m. Whatever it may cost in June, 1986.

HON J BOSSANO:

Yes, but I think the Honourable Member is not quite getting the point. If in fact today, for example, Mr Speaker, an LSL is refitted in the Gibraltar Dockyard for £1m then one can say if it is £14m at fixed prices then clearly you won't be able to do 14 RFA's because as time goes on the price will increase. We don't know what is the price charged and therefore what I am saying to the Honourable Minister it is a valid thing if he gets a commitment on the quantity of work as opposed to the quantity of money. But if he is told: "We are giving you work worth £14m", then is the position that if the first RFA that arrives here costs £14m to do that is the end of the money?

HON CHIEF MINISTER:

First of all I cannot imagine an RFA costing £14m to do in a year.

HON J BOSSANO:

Well I can assure the Honourable Member that the "Olwen"

which was the first RFA that we did in Gibraltar cost £8m.

HON CHIEF MINISTER:

I am prepared to accept that. I am glad they are so well paid, I hope the same thing follows when it is commercialised. I would have thought in that respect that the Navy would want to get value for money in those £14m. That is all that I can say in that respect.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, while it may not be explicit in reports etc and obviously the agreement between the Governments does not carry it out specifically, purely for reasons of unknown future operational requirements but there is a fairly clear indication of the actual number of ships per year, and I can assure the Honourable Members that it is more than one per year.

HON J BOSSANO:

The point I am making is that the indication on the number of ships and the indication of the amount of money is one of the areas, one of the many areas, where the figures do not add up and do not square because, in fact, the total number of ships in itself tells us nothing. One can put a ship in and scrape its bottom and paint it and have it three days in dock and if one does that every week then one does 50 ships in a year. If one charges £100,000 for painting a ship's bottom then one can spend £1million doing ten ships. It is not enough to talk about the number of ships because I can assure the Members that the figures of numbers of ships there and the amount of man hours spent on the ships and the amount of money certainly do not square if one compares the first estimates of Appledore with the second estimates. This figure of £14m is an enigma, one doesn't know what it means, and presumably Mr Casey might have been asked to help throw light on the situation since he is getting all that much money, I am trying to do my best and I am not getting anywhere as much as he is.

HON CHIEF MINISTER:

I would just like to say that dealing with Ministers in broad terms I could not get into hourly rates as the Honourable Member will understand and that therefore I must presume, and this was stressed in no uncertain terms even at the first meeting when the 6 months were offered, how valuable this original offer and how important it had been to get this work

for Gibraltar when other shipyards were asking for it in the United Kingdom, that we were going to get that amount of money worth of work. I must necessarily assume that the Navy will get value for money from Appledore or from anybody. Therefore I cannot really go into the details because I didn't go into them in negotiations, that I am sure must have been left to other people.

HON P J ISOLA:

I would like to say something on this because to me the bit of news tonight is that Mr Casey, the man who put in my view of all the consultants reports I read, the man who put the darkest gloss on commercialisation, is the man who apparently advised the Chief Minister to accept a deal that was far short of what he recommended. In fact, it was Mr Casey's report that convinced those of us in the House who read it, on this side of the House, that commercialisation was a gonner. I am amazed to hear that Mr Casey was sitting close to the Chief Minister throughout his visit to the Prime Minister in England and must have been giving contrary advice to what he has written and for which he is being paid when he came here because the deal that came, which is a three year guarantee as opposed to two or whatever it was, falls far short of what Mr Casey recommended. Therefore, Mr Speaker, I now know why that particular report will not be made public because if it is made public it will be clear to everybody that Mr Casey either changed his mind very dramatically for another £8,000 odd or whatever it was in London, or the Chief Minister did not take his advice. I don't know which, I am just amazed by all this, Mr Speaker, we are not going to vote for this.

HON CHIEF MINISTER:

I think that that is a most unprofessional remark to be made by a professional person about another professional person even if its sarcastic in an attempt to try and ridicule it. Mr Casey was not responsible for the deal that I finished with the British Government at all, that was the responsibility of the Gibraltar Government and those who formed the team. He was available for advice on everything and it was not just the deal of whether the dockyard would go or whether what he said in the report was available or not. He was a consultant on general matters who was advising us from time to time and there will be plenty of time for him to answer on television whatever questions may be asked about his report and on everything else. All I say is that we have spent a lot of money in consultancies and this House has paid and all I say is that I as a professional man think that he has earned every penny of whatever we are

going to pay him and I am grateful that I had him because perhaps if it hadn't been for that the deal might have been different. All I say is that he gave us the advice that was required, he gave us the know-how in many matters and gave us a considerable amount of help in carrying out these negotiations.

HON P J ISOLA:

Can I ask the Chief Minister, did he state to the Chief Minister how many years would be required for the commercialisation to achieve viability because I remember what he wrote in the report.

MR SPEAKER:

We are not going to get involved in that one, certainly not.

HON A J CANEPA:

Yes, he did, Mr Speaker, and my assessment is that if we have got that from the British Government people in Gibraltar would never have turned their minds to the fact that closure is an accepted fact and that we have to, whether we like it or not, plan for commercialisation. It would have been seen as something so far off that it might never happen. In that respect the British Government and Mrs Thatcher was right and that we were wrong in asking for 2 years because if we had got two years people would never have accepted the reality of the situation. Even now, look how time is running out.

HON P J ISOLA:

I am talking of the years that Mr Casey says before viability could be reached in commercialisation. There is a figure which he put in his report. If the Honourable Member will allow me to say it I will give it to the House.

HON A J CANEPA:

There is a figure which is tied to what his assessment of the upswing of the shipping industry when he considers that there will be an improvement in the state of the shipping industry.

HON CHIEF MINISTER:

We are not discussing his report, we are discussing his pay.

HON J BOSSANO:

Yes, his pay, Mr Speaker, but we are paying for somebody who is supposed to be giving advice and we are all paying for it and if that person is giving advice only to the Members on that side of the House they can then take the responsibility for paying him, not us. The Learned Member has taken a decision and Mr Casey is going to be put on television to defend his point of view and his decision.

HON CHIEF MINISTER:

I don't care what he is going to say. He is coming to appear on television to be questioned. I have not briefed him, he was there, he knew what the deal was and he has to answer for whatever questions may be asked by people who know what he advised. That is all, he is not coming here to defend my case, or to defend anything. He is coming here to inform the public and to account for whatever advice he has given to Gibraltar.

HON J BOSSANO:

Then, Mr Speaker, if that is the case, I cannot understand why the Honourable and Learned Chief Minister in an earlier part of the debate said he was sure that GBC would produce a balanced picture. Presumably GBC does not need to put a balanced picture because Mr Casey, according to him, may well come out saying on television tomorrow; "I think that the Government of Gibraltar has made a terrible mistake because I recommended in my report that the proposals should not be accepted because it required 8 years", and presumably I can do that without putting state security at risk.

HON CHIEF MINISTER:

You are already doing it.

HON J BOSSANO:

I am doing it, yes. Presumably if Mr Casey has got the discretion to decide whether he can quote from his report without ruining Gibraltar, I who have got the interests of Gibraltar at heart more than Mr Casey I think, then I am going to quote without putting Gibraltar at risk. Therefore, I am telling the House and I am telling the Honourable and Learned Chief Minister, that he is stretching our ability to believe in what he is saying here to the limit if he really expects that Mr Casey can come on television on a programme where he

is being interviewed as Government consultant, the same as the other two were, and say that the Government is wrong, that the Government ignored his advice.

HON CHIEF MINISTER:

I do not know what he is going to say and I don't care.

HON J BOSSANO:

And he doesn't know that?

HON CHIEF MINISTER:

I don't know.

HON J BOSSANO:

Until he switches on the television the Honourable and Learned Member does not know whether Mr Casey will say that he is right or he is wrong. I do give way.

HON CHIEF MINISTER:

I can give a most solemn undertaking to this House that I have not spoken to Mr Casey, that he has been asked to appear on television, that he will arrive tomorrow and I am not going to see him. He will be recording an interview apart from appearing in whatever panel it is because we consider that he should be made available and he should account for the advice or whatever it is and I will not interfere and it is up to him to say what it is and I don't care. I got the advice from him that helped me at the time and that is what we are voting in this House.

HON J BOSSANO:

Then can I ask the Honourable and Learned Chief Minister since he got extra advice from Mr Casey and what we are voting for is money partly for some extra advice, can I ask whether the advice that he got was that it was possible, in fact, as Appledore hoped, to bring about dramatic changes in work practices within four years, to achieve viability in less than a year and to maintain the output of the dockyard with the amount of naval work that Appledore suggested, and not with the amount of naval work that he suggested in his report, is that the advice that he got and we are voting money for?

HON CHIEF MINISTER:

Whatever advice I received from Mr Casey, decision taken with the British Government is the decision of the Gibraltar Government and that is the end of it.

HON J BOSSANO:

But I am not asking the Honourable Member whether that is the end of it or not. Quite apart from anything else that decision, I would remind him, cannot be fully implemented until January 1985, and the Gibraltar Government might be a different one. Apart from that I am not questioning the decision because this is not a debate on the Government's decision, Mr Speaker. I am saying, since I am being asked to vote for money which has been paid to Mr Casey for giving advice subsequent to the advice that he gave and that I have been shown, am I not entitled to want to know what is the advice that I am voting money for? And if I am entitled to know that, otherwise the Government is saying to me that I vote the money without knowing what the money is for or what it has produced. But if I am entitled to know what it has produced I am asking him whether subsequent to that report, he received advice from Mr Casey to the effect that Appledore could run a commercial dockyard and attain viability, that is, reach break even point in less than a year which is conflicting with the advice he had given before, with less naval work than he put in his report and in fact could achieve the dramatic changes in productivity and work-practices which he said in his report he didn't think could be achieved even if there was union agreement. Is that the advice that is now worth £13,000?

HON CHIEF MINISTER:

Mr Speaker, the Government in the exercise of its executive power as the elected Government of Gibraltar, is entitled to come to this House and seek provision for advice that it has received. It has no duty to say what the nature of that advice is.

HON P J ISOLA:

Let me say that if that is the case, Mr Chairman, why were we shown the Consultants Report in the first place? We were shown the Consultants Report in the first place so that we as an Opposition, as elected Members of the people of Gibraltar, could form a view. Now we are being told that further advice given by Mr Casey is not available to us even though it might have contradicted previous advice so we are not voting for this.

HON CHIEF MINISTER:

This is not available to me, there is nothing written. It was a matter of having a man of knowledge available from meeting to meeting, except that he was present at one meeting, a general meeting at which there were all the officials with Baroness Young, he was not present when we went to see the Prime Minister, of course he wasn't. He wasn't present in any other of the meetings other than the general meeting presided over by Baroness Young which I think was a bit of a waste of time but, anyhow, everybody was there speaking to their brief and he was there available. He was available before we went to a meeting, he was available to see the minutes of the meeting, he was available to advise us on what the next meeting was and he was, to me, a very great help in carrying out my duties in the United Kingdom whatever those duties may come out to have been.

HON MAJOR R J PELIZA:

Mr Speaker, I am going to vote against this and I think it is only fair that I should say why. Mr Speaker, first of all, this report was made available to the Members of this House provided that it was kept confidential. When I went to the Secretariat I wrote a letter to the Chief Minister saying why I was not reading the report. I have not had a reply to that letter. The situation was bad then and the situation is even worse now in that not only one can read the report but not make it public but one is not even told what we are getting for the £13,000 that we are supposed to vote in this House. What kind of Government is this that comes to this House asks for money and doesn't tell you what that money is buying or has bought.

HON CHIEF MINISTER:

Yes, it has bought the time of an expert to advise the Government and that is the end of it.

HON MAJOR R J PELIZA:

Who, apparently, I haven't read the report, has done a U-turn completely and it is not explained why he has taken that U-turn. That is even more mystifying, Mr Speaker, and even worse, we are told that he is coming here to inform the people of Gibraltar of the situation when the best information would be to release the report that he has already written but that is not released. All this is very, very mystifying and I think it is so mystifying that led my Hon Friend to make a statement which the Chief Minister says is unprofessional. It is

unprofessional, perhaps, why? Because the Chief Minister has led to that situation because there is no other explanation. Mr Speaker, I am going to vote against, I do hope that Mr Casey does not put out the sort of brain washing session that we saw the other night which I think would have done credit to Franco, Hitler and Mussolini, the way it was brainwashing the people who were looking at that thing. I think it is a disgrace that in a British community that should be happening and therefore, Mr Speaker, I cannot vote.

HON A J CANEPA:

Mr Speaker, the kind of Government that we have here is one which gives Members of the Opposition much more information than the British Government gives Members of the Opposition in the United Kingdom even where they vote for expenditure on reports. Of course, what is clear is that the Government should seriously reconsider in future the extent to which we make available reports in confidence when that confidence is being broken in the manner in which we see is clearly happening again and again. But no Government I think would give the kind of ammunition, certainly not in the United Kingdom which is the mother of Parliaments, the cradle of democracy. The British Government would not give the Labour Party any kind of information similar to the one that Members opposite have been privy to.

On a vote being taken on Head 26 - Treasury Subhead 18(New) Dockyard Consultancy, the following Members voted in favour.

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

The following Hon Members voted against.

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

The following Hon Members were absent from the Chamber.

The Hon Major F J Dellipiani
The Hon W T Scott

Head 26 - Treasury was accordingly passed.

Supplementary Estimates Consolidated Fund No.2 of 1983/84
was agreed to.

IMPROVEMENT AND DEVELOPMENT FUND, SCHEDULE OF SUPPLEMENTARY
ESTIMATES NO.2 of 1983/84

Head 104 - Miscellaneous Projects

HON A.T LODDO:

Mr Chairman, another Consultant. Can I ask why it has been necessary to spend £10,000 in connection with the installation of a travelling conveyor belt system after all we have spent on the Sand Quarry Company seems to be a quicksand. All the money we put in seems to drain away. Why £10,000, Mr Chairman? Can we have an explanation for that. We keep on pouring money down this quicksand of ours.

HON M K FEATHERSTONE:

Yes, Sir, because first it is necessary to design the travelling belt system, it is necessary that somebody should supervise its installation, it is necessary that somebody should supervise the actual material and equipment that is going to be installed.

HON A T LODDO:

Mr Chairman, how did the sand come down before?

HON M K FEATHERSTONE:

It didn't.

HON A T LODDO:

Right, why didn't it come down before?

HON M K FEATHERSTONE:

Basically because the co-efficient of friction was so high at

the angle of the chute that it was unable to travel under its own volition.

HON A T LODDO:

Right, Mr Chairman, and who Mr Chairman designed that first chute?

MR SPEAKER:

No. We have gone through all that and we have even gone through the amount of compensation given.

HON A T LODDO:

Mr Chairman, granted, but why should we have to pay for this new thing when the other one didn't work and we had already paid for that one?

HON A J CANEPA:

But we are not paying the same people.

HON A T LODDO:

Right but why should we have to pay anybody else when the first one messed up the job?

MR SPEAKER:

They got their compensation for the other and now they are trying to put things right.

HON A T LODDO:

The compensation was more than the £10,000 we are paying now, yes?

On a vote being taken on Head 104 - Miscellaneous Projects the following Hon Members voted in favour:

The Hon I Abecasis
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes

The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon 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 Members were absent from the Chamber.

The Hon Major F J Dellipiani
The Hon W T Scott

Head 104 - Miscellaneous Projects, was accordingly passed.

Head 106 - Potable Water Service was agreed to.

Head 108 - Telephone Service was agreed to.

Supplementary Estimates Improvement and Development Fund (No.2 of 1983/84) was agreed to.

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 LOANS EMPOWERING (1981-1986) (AMENDMENT) BILL, 1983.

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

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

The House recessed at 8.15 pm.

THURSDAY THE 20TH OCTOBER, 1983

The House resumed at 10.40 am.

MR SPEAKER:

I will remind the House that we are still at Committee Stage and that we have the Traffic (Amendment) Bill to consider.

THE TRAFFIC (AMENDMENT) (NO. 3) BILL, 1983.

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, at the Second Reading debate on this Bill there was discussion of the new subsection 5(b) and concern which expressed that this subsection would mean that named drivers of taxis could be arbitrarily removed and I explained at the time that this was not the intention of the subsection and that nothing in this provision will alter the contractual relationship between a taxi driver and a named driver. The relationship should be one of employer/employee or probably more commonly it would be one of co-partners or a business relationship of some sort. I am satisfied that this is so but in the course of the discussion on this subsection it led me to look more closely at the draft to make sure that the point that was concerning the Honourable and Learned Leader of the Opposition was in order but incidentally I came to a view that I think this subsection can be better drafted not to meet the point that concerns him but generally to improve the drafting of the subsection so I would like to move an amendment to omit the new subsection (5b) in Clause 2 subclause (5) on page 138 and to substitute the following subsection: "(5b) Notwithstanding section 61, but subject to the other provisions of this section and to any directions given to him by the Commission, the Secretary to the Commission may on the application of the holder of a road service licence in respect of a taxi, substitute the name of a person as a named driver in the place of any other named driver of the road service licence". The only purpose for that is administrative and that is to save the trouble of having to go each time to the Commission itself to change the name of the taxi driver but the delegation given to the Secretary will be subject to the law and will be subject to control by way of direction by the Commission.

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

HON MAJOR R J PELIZA:

It seems to meet the point that my Honourable Friend, the Leader of the Opposition, made yesterday to some extent and we shall go along with it.

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

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 resumed.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Imports and Exports (Amendment) Bill, 1983; the Law of Property (Amendment) Bill, 1983; the Control of Employment (Amendment) Bill, 1983; the Matrimonial Causes (Amendment) Bill, 1983; the Traffic (Amendment) (No.3) Bill, 1983; the Public Health (Amendment) (No.3) Bill, 1983; the Elderly Persons Non-Contributory Pensions (Amendment) Bill, 1983; the Medical and Health (Amendment) Bill, 1983; the Income Tax (Amendment) (No.2) Bill, 1983; the Supplementary Appropriation (1983-84) (No.2) Bill, 1983, and the Loans Empowering (1981-86) (Amendment) Bill, 1983, have been considered in Committee and agreed to, in the case of the Matrimonial Causes (Amendment) Bill, 1983 and in the case of Traffic (Amendment) (No.3) Bill, 1983, with amendments, and in all other cases without amendments and I now move that they be read a third time and pass.

HON P J ISOLA:

Mr Speaker, could we have a separate vote on the Imports and Exports Bill and on the Matrimonial Causes Bill?

MR SPEAKER:

Most certainly.

Mr Speaker put the question and on a vote being taken on the Law of Property (Amendment) Bill, 1983; the Control of Employment (Amendment) Bill, 1983; the Traffic (Amendment) (No.3) Bill, 1983; the Public Health (Amendment) (No.3) Bill, 1983; the Elderly Persons (Non-Contributory) Pensions (Amendment) Bill, 1983; the Medical and Health (Amendment) Bill, 1983; the Income Tax (Amendment) (No.2) Bill, 1983; the Supplementary Appropriation (1983/84) (No.2) Bill, 1983; and

the Loans Empowering (1981-1986) (Amendment) Bill, 1983, the question was resolved in the affirmative and the Bills were read a third time.

On a vote being taken on the Imports and Exports Amendment Bill, 1983, the following Hon 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 H J Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against.

The Hon P J Isola
The Hon A T Loddo
The Hon Major K J Peliza
The Hon G T Kestano

The following Hon Members were absent from the Chamber.

The Hon J Bossano
The Hon A J Haynes
The Hon W T Scott
The Hon Dr R G Valarino

The Bill was read a third time.

On a division being taken on the Matrimonial Causes (Amendment) Bill, 1983 the following Hon Members voted in favour.

The Hon I Abecasis
The Hon J Bossano
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A T Loddo
The Hon J B Perez

The following Hon Member voted against.

The Hon P I Isola

The following Hon Members abstained.

The Hon A J Canepa
The Hon F J Dellipiani
The Hon Major R J Peliza
The Hon G T Restano
The Hon H J Zammit
The Hon J Hull
The Hon E G Montado

The following Hon Members were absent from the Chamber.

The Hon A J Haynes
The Hon W T Scott
The Hon Dr R G Valarino

The Bill was read a third time.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House is seriously concerned at the reported lack of safety in the working environment of the Refuse Incinerator and calls on Government to conduct an enquiry and rectify the situation to prevent any future accidents". Mr Speaker, I thought it was right to draw the attention of the House to the conditions under which people are expected to work at the Refuse Incinerator particularly since it is not so long ago since we had a situation where the working hours at the incinerator were reduced at the time of the budget and at some stage or other there was this concept being created that people were in very lucrative employment and in very attractive employment when in fact a not insignificant part of the need to provide high level of earnings at the incinerator is due to the unattractiveness of the job precisely because of the environment which has never been a very nice one and which is in fact today in a situation where I personally am convinced that under the United Kingdom law on health and safety the place would be completely closed up. Let me say that this is a particular area in which our legislation in Gibraltar is totally behind the rest of Western Europe. In the United Kingdom in recent years, under the Health and Safety Act, in fact, there are safety representatives from the work force who are not necessarily shop stewards, quite often the role of safety rep and shop steward falls on the same person but there is no need for the person to be a shop steward to be a safety rep but there are safety representatives which are nominated by the workforce and these people have got a statutory position, that is, the law requires that every

employer and that every industrial premises should have nominated safety representatives who have been given very wide powers under the law. They have the power actually to stop work not because there is an industrial dispute but because the safety of the employees takes precedence over every other consideration and in this respect, in fact, the United Kingdom is a late comer into the field. Legislation of this nature and giving even wider powers to safety reps has been in practice in Northern Europe, in the Scandinavian countries and in West Germany for very many years and the United Kingdom has moved in that direction in the last few years and we have not and I think we will find that the Law Revision Committee that the Honourable and Learned Chief Minister mentioned may well come across the Health and Safety Act any minute now and bring it to the House of Assembly and I hope it will not prove as contraversial as making women jurors a compulsory thing. In bringing the motion to the House I have drafted it in a way that it should not be construed as a censure motion on the Government, I have drafted it in a way which in my judgement makes it possible for the Government to support the motion because what I want is to draw the attention of the Government and to draw the attention of the House to the situation that exists and this is why I have said "reported lack of safety" but let me tell the House that although I have said reported lack of safety in the motion, I have been there myself in a union capacity and I have no doubt about the lack of safety. If we take one incredible area of the working environment which is in fact the area where the accumulations of wood collected by the bulk refuse collection is burnt, this isn't burnt in the incinerator, there is a compound and an open air fire and this compound is made up of three brick walls and there is a pile of wood running from one end of the compound where the incinerator is to the other. It is a pile of wood that burnt recently and was put out by the Fire Brigade and it is very fortunate that it burnt because there is now an equally high pile of wood for which there would have been no space if the original hadn't burnt so it helped to create space for the wood that is there now. But this pile of wood has got to be moved physically by hand by two labourers into the compound where it is burnt. There is a constant flow of more wood arriving and the inflow is greater than the amount that can be burnt so inevitably the pile grows bigger and bigger and bigger until by accident it burns. The other incredible thing about this is that the compound itself is falling down and there is a very clear reason why it can be expected to fall down since the Government has got this difficulty with money now and is very rigid about not giving non-essential overtime irrespective of how much wood there is to burn, half an hour before knocking off time the two labourers are required to put out the fire by hosing it down with cold water which obviously drenches the

red hot bricks of the surrounding compound which then starts shooting all over the place as if they were in the middle of a war. The situation is that the wall is full of cracks, that the bricks are falling out, that the Government has spent money in patching them up in the past and they do not last and that in fact it is very inefficient, unsatisfactory and dangerous way of disposing of the refuse. The people concerned in fact, would be well within their rights to say that they refuse to work in the vicinity of a wall which is on the verge of collapsing on top of them at any minute. The other clear area is that the number of guards around the machinery do not get replaced and this is because the men have been told that with the tight financial situation the department within its budget has not got the resources to keep up the standards that should be kept up. I do not think that this is a satisfactory state of affairs. I do not think that financial stringency can be put over safety at work. One of the employees there, Mr Speaker, had an accident recently, it is a matter which I do not want to pursue here any further because the Union considers that the accident has resulted from insufficient safeguards on the part of the employer in the working environment and therefore they intend to pursue the matter in terms of seeking compensation because the Union view is that although the Union takes it upon itself to bring to the notice of the employer the fact that there are deficiencies in the requirements as to safe working conditions, it is fundamentally an employer's obligation to provide a safe working environment, it is not the job of other people to bring it to their notice and therefore the Government itself, or any other employer for that matter, has got a moral obligation if not a legal one to ensure that the environment in which it is requiring its employees to perform duties as such that they are put at a risk which is not in fact recognised openly and compensated for. I would urge the Government to support the motion, Mr Speaker, to look into the situation and, in fact, if it is indeed the case as the information that has been passed on to the employees appears to be that the department itself is not unaware of the deficiencies but has not got the finances, then let the Government come back to this House and point out what it is that they need money for to create a safe working environment because I am sure that if the House is prepared to vote money for 5 extra police officers because the frontier is open they will not deny the funds to the Government to ensure that people do not put their lives at risk to get rid of the mountains of refuse that Gibraltar generates. I commend the motion to the House.

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

HON M K FEATHERSTONE:

Sir, I would not accept that there is basically a lack of safety at the refuse destructor although I would accept the comment by the Honourable Mr Bossano that the area is not the most pleasant of areas in which to work. Refuse of its own substance, is not a very pleasant smelling material to deal with and there is a not too happy atmosphere at the destructor because of the nature of the materials although I do not think that basically they constitute a health hazard. Sir, the Honourable Mr Bossano has made two or three points that I would like to deal with. The first one I would like to deal with is the question of how we dispose of the considerably large quantities of wood which do get taken down mainly by traders to the refuse destructor. The plant that we have is not manufactured basically for the disposal of wood. The plant is made in such a way that it burns household refuse and the temperatures are such that if large quantities of wood were put in it would not do the plant very much good, the refractory surfaces would get over-heated and would not be exactly the type of burning material for which the plant is designed. However, the situation is that we do get a large amount of wood and the only solution we have had up to the moment and I will accept that it is so, has been a rather primitive open hearth method of buring this wood as the Honourable Mr Bossano has said, in an open hearth surrounded by three walls, actually of refractory brick, burning can only take place at certain periods depending on the weather because sparks do fly up and there are possibilities that these sparks could give rise to fires in other areas. It is accepted, Sir, that the open hearths as they are at present are not the best solution and as I have already said the Public Works Department are designing a new type of open hearth which should give far better results and far easier methods of work to the men concerned. The question of the safety of the men has been of paramount importance to the PWD, so much so that instructions were given some little time ago that nobody was to go into the open hearths once the fires were out to remove ashes but the ashes were to be removed by mechanical means with no actual person entering the area in case the walls should collapse. The cooling down of the hot ashes with hosing is correct but basically there is not very much needed, the men take a modicum of care to splash around and pour large quantities of cold water on to the hot bricks, although some splashing may take place. Sir, I would not accept that because of the tight financial situation PWD have said that they do not have the resources to keep up the safety situation. I would confirm that maintenance is carried out on a continual basis, such as greasing, bolt tightening and in fact the mechanical grab cables are changed every few weeks, so this is a continuing

procedure of safety measure. I would accept, Sir, that PWD would not be unsympathetic to a Member of the staff being a safety representative but there is one thing that I would like to bring out and this is a very important matter. In all places where there is moving machinery and where there is an element of danger, it is usual to have the moving belt, etc covered by safety guards. Unfortunately, familiarity breeds contempt and in many instances, perhaps because it is inconvenient, perhaps because people are lazy, perhaps because the supervision has fallen down, safety guards have been removed and have not been put back. In the incident in which a certain gentleman suffered an accident, the place where he suffered it was basically what one might consider a place which is normally outside the area of where a man would normally be expected to work. One would only go for that area under very special circumstances and the main circumstances would be to go and change the belts and, of course, when this is being done the machinery should be stopped. Unfortunately, this area, the belting should have a guard but possibly at some time when the belting was being changed the guard was obviously taken off and was not put back, I visited the place myself and I saw the guard actually lying on the ground. There is also a door which you have to pass through to get to this area and the regulations state that this door should be kept shut but because of the prevailing smell and the hot weather it is the normal practice to leave this door open and so to approach this area is not I would say in the normal circumstances of a man's duty. There is of course a regulation in the Factories Ordinance which does say that where it is considered that a belting is in such an unacceptable position and in such a position where people would not normally have access to it, it need not be protected and that might have been the reason why once the guard had been taken off it was not put back. However, I have given instructions that the guard should be put back and I think it has already been replaced. The accident to the gentleman was not too serious, thankfully, and of course it is a matter of very great regret but, as I say, it is a question to some extent that familiarity breeds contempt. It might have been far better when the gentleman went into this area that he should have requested first from the PTO, and I understand he went without instructions from the PTO, that the machinery should have been switched off first. I think, Sir, the other point that has been brought up by the Union is that the whole of the area is in if not an absolute mess, it has been overcrowded with materials etc, although I understand last weekend a concerted effort was made under which much of the metallic rubbish that was accumulating down there has been removed and dumped and we are looking into a situation for the future under which, perhaps metallic refuse will not as it is at the moment be taken down by traders themselves and dumped in our

compound but that they will have to take it to a tip somewhere at Europa and tip it into the sea in the same way as we do cars. This, I think will give a far easier working area because I will accept that at the moment with on one side a vast accumulation of wood which could not have been burnt because of weather conditions and on the other side a vast accumulation of metallic rubbish, it was rather a constricted area in which to work, although the main constriction was less on the men working there as on the lorries driving in and driving out. I would say, Sir, that PWD does understand and is already expressing concern and is taking action on the need for safety. I would once again point out the question that a safety representative would, I think, be a good thing insofar that where we do get these instances of familiarity breeding contempt, he would be the first to say to his work mates, "Look, I know that it is more convenient not to put these guards back". In fact, I have had experience of this, myself, in my own life. We worked once in a factory and the safety officers came round and they put on a guard on a machine and it meant that every time you wanted to use it you had to put the guard down. It became such a nuisance to do it that eventually the men themselves took it away. Well, this is the sort of thing that happens. But if there is a proper safety representative it would be part of his duty to see that this does not happen. I do understand also that the Labour Department has recruited, or is shortly recruiting, a safety officer from the Dockyard who will be able to look into all these areas. We may have other areas where safety would also need some attention and therefore, Sir, I would say that since we are already coping with the situation the motion which has been a good exercise in bringing it to the notice of the House would not basically be necessary any further and perhaps the Honourable Mr Bossano would like to withdraw it.

MR SPEAKER:

Are there any other contributors?

HON P J ISOLA:

Mr Speaker, actually what the Minister has said rather alarms us on this side of the House. We feel that if there is a lack of safety in the working environment it is the responsibility of the Government to make it safe and more precisely it is the responsibility of the Director of Public Works. I am amazed to hear the Minister talk about perhaps not enough supervision, perhaps familiarity breeds contempt. I do not know what an admiral would think if they say him talking like that in respect of a ship or a colonel in respect of a regiment.

Surely, supervisors are there to supervise and if they are not supervising there should be somebody supervising the supervisors, that is the chain of command in any department, in any Government anywhere, eventually it is the Minister who is responsible. The Minister is responsible eventually, if the guard wasn't replaced and what has to be set up, Mr Speaker, is a system of checking all the way up. It is no use passing responsibility to men and appoint a safety representative and that is it, that gets them off the hook. An employer or a Government department can never be off the hook Mr Speaker, it is their direct responsibility. We support this motion because, obviously if there is a lack of safety in the working environment, I know it is up to the workers to make representations if they feel strongly about it, but whether they do or they don't it is the responsibility of the Government, it is the responsibility of the employer to make the place safe, and to be told that somebody forgot this or that somebody didn't bother to do it, well, what action has been taken? No action has been taken at all. Familiarity breeds contempt or supervisors are not doing their job, says the Minister. Well, what is he doing about that? Who supervises who?

HON M K FEATHERSTONE:

I said it possibly was, on the other hand it might have been that it was considered in such an area as to be classified as inaccessible under normal circumstances and therefore under the Factories Ordinance there was no need for the guard at all.

HON P J ISOLA:

Whatever it is, Mr Speaker, it is the responsibility of the Government it is the responsibility at the end of the day of the Chief Minister or the Government but I do not think it ought to get that far in a situation like this. We agree with the motion that the Government should conduct an enquiry. What we would not agree is to the form of enquiry that we have had, for example, in the Generating Station where you get a lot of people sitting together for months and months. An enquiry, yes. The Minister should ask the Director of Public Works: "Conduct an enquiry, tell me what has gone wrong, get a report, I want to know what has happened, I want to know why they were not supervised, why so and so was doing that or was not doing that". That is the chain of command. The Government Mr Speaker, with the greatest of respect, I do not want to generalise the motion, but that is what we find all along with the Government, it is the chain of command. The Head of the Department is the man who is responsible and I am not surprised that the Honourable Member has brought this motion to the House

if the story that he has described and the story that the Minister has described is correct. Of course, he has to bring it to the House, with the Minister suggesting a safety representative from the workforce.

HON M K FEATHERSTONE:

I did not suggest this, the Honourable Mr Bossano suggested it.

HON P J ISOLA:

All right, he suggested it, but the Minister said: "If that is what they want I will put one in that takes responsibility off my department". He cannot abdicate responsibility on matters of safety and we agree entirely that if there has been negligence in this place, if there has been lack of supervision, if there has been lack in safety methods it demands an enquiry and the Director involving himself personally to find out what has gone wrong and giving a report to the Minister and taking the necessary action. We support the motion.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am not going to get myself involved in the actual happenings at the incinerator and on the enquiry. I would like to speak generally on the question of safety as I know it, as the Minister ultimately responsible, because the Factory Inspector comes under me and because of my knowledge in the past of the building trade. I don't share the view quite as forcefully as the Honourable Leader of the Opposition where the blame is put solely on the Government or employer. Safety can only work if it works from both sides, from the employee and the employer. If the employee does not cooperate in the safety measures introduced either by law or by the employer, you can have all the safety measures that you want, if the employee does not use the safety provisions made then the accidents will happen. A classic case is the question in the UK with the safety helmet where some employers have it as conditions of employment that a chap has to wear his safety helmet and if he does not he is thrown out. In other areas it is not a condition of employment but they try to encourage the chap to wear a safety helmet. I remember going to a fairly big factory in Billingham, in the north east and the only people who used to wear the safety helmets were the Directors. None of the employees who were working under overhead cranes etc, were wearing safety helmets because it was uncomfortable. The question of the safety guard in moving machinery is very true. If you have a wood working universal saw, you normally have a sort of a guard on top and you can

actually work with the guard but it is a bit uncomfortable and every machinist I have seen takes the guard off and puts it against the wall. When he has finished his work he puts it back again in case the factory inspector comes along and spots him. I think there is some logic in that the employees should be concerned and cooperate with the employer, and in this case with Government. The employer or the supervisor can go to the representative and say: "Look, we have done this but your chaps are not taking advantage or not taking the proper precautions that we have put down". You can put as many precautions as you want but if people disregard them, accidents will happen. Thank you, Mr Speaker.

HON M K FEATHERSTONE:

If I may just add to that, Sir. The other day there was a Moroccan doing the work that the Honourable Mr Loddo has asked on many occasions, chipping the edges of the road. He had a pair of protective goggles which he had stuck on the top of his head instead of over his eyes.

HON CHIEF MINISTER:

Mr Speaker, I would like to thank the Honourable Mover for bringing this matter to our notice. Unlike the Leader of the Opposition who wants to make political capital out of everything, he has raised it on behalf of the safety of the men and has not had a tirade about the Government and ultimately being responsible for what happens in the Destructor but that is his instinct and we have to look at the matter more practically. We do welcome the debate, whether he withdraws the motion or not it does not matter, we will do what is necessary as the Minister has quite rightly said. But I am sure the Honourable Member when he replies, whatever his decision may be, will accept that no amount of safety devices and so on can work without the co-operation of the workforce. I remember in the days of the City Council when we had a lot of problems with acetylene and the use of goggles for that and we had a man who lost most of his sight about 20 or 25 years ago, simply because he objected very strongly to using goggles. The goggles were provided by the employer and he just did not want to use them. I think one of the most important indications given is the fact that the Government is aware of the necessity, and this is perhaps one of the worst, but the Government has got many other workshops, many other places that can be looked at. The safety of the workers are our concern all over the place not just in the Refuse Destructor. The Honourable Member has raised perhaps, the worst case, the most blatant case that requires going into but we have now got or will be getting very soon the services

of a very experienced safety officer whose training and experience in the Dockyard we are going to get the benefit of and it is because we want to ensure the safety of the people who work in the Government that we have done that and will do whatever is necessary. There is no question on restraint on expense of safety of this nature, this is a major responsibility and in any case in terms of cost-it is irrelevant in a way to the budget having regard to the importance that the safety brings about to the people concerned which is after all our main concern, the welfare of the people. It is proper, too, if I may say so, that the people more directly concerned with the workforce should bring this matter to our notice. If sometimes workers are a little careless, if sometimes middle-management are a little careless, and if top management is a little careless it needs shaking up from time to time and indeed I think we are all grateful for this matter being brought forward because it will give an impetus to what should have been done anyhow and that is what we all want, the safety for the workers that the Government have in its employment and, indeed, legislation which will have to be enforced in connection with those who are not in the employment of the Government who also deserve protection and the Safety Officer which for a number of reasons we have not been able to have in the past will soon be in post to ensure that our workers are properly protected.

HON MAJOR R J PELIZA:

I think it is most unfair of the Chief Minister immediately to attribute the contribution of my Honourable Friend the Leader of the Opposition of being just a question of trying to make political capital out of it particularly when he accepts that something is very wrong in the department, when he thanks the Honourable Member for bringing the motion to the House. Surely, there should never have been any need on such an important matter, of which he claims he is so interested in and which he accepts is ultimately the responsibility of the Government, surely this should not have been happening. Surely, the Government is supposed to enforce the law on safety, and they themselves by their own admission accept that this has not happened in the past and have gone to the extreme now trying to employ someone who is supposed to be.....

HON CHIEF MINISTER:

If the Honourable Member will give way. There is no question of extremes, that is absolute nonsense. We have been trying to recruit the proper person, we now have a proper person to recruit because the post has been vacant for some time and we

have been fortunate enough to be able to recruit a very suitable candidate without having to send anybody on a course. It has not been an extreme, the Honourable Member when he gets up talks such rubbish, such nonsense.

HON MAJOR R J PELIZA:

That is what the Chief Minister always thinks, that is why he always stands up so quickly to answer me because he thinks that I am always talking rubbish. Mr Speaker, I think that this is clearly an occasion which the Government has to admit and has admitted that something has gone wrong in that particular aspect of the Government's responsibility and all we hope is that now that this has been brought to the attention of the Government and that they have undertaken to do something drastic about it, to ensure that not only in this particular department, but that he will look into all the other departments now that they have done that, I do sincerely hope that it will not be necessary to have to thank a Member of the Opposition for bringing it to their notice again.

HON A J CANEPA:

Mr Speaker, it is extraordinary how easy to get up in this House to speak such nonsense and to have so little memory. During the years that the Honourable Member was Chief Minister the Government did not have a Factory Inspector. When I took over the department as Minister for Labour in 1972, I had to make arrangements to have a Factory Inspector recruited and to have the post filled and a person was sent to the United Kingdom for that purpose. What has not been entirely satisfactory about the Factory Inspectorate in spite of the fact that in 1974 we had advice from the United Kingdom inspectorate, has been the fact that over the years the incumbents have been people who were recruited from the clerical grades and it became evident 18 months ago or 2 years ago, that it was necessary to ensure that the person should have a technical background and that therefore recruitment for the post should be opened on the basis of allowing other people such as those who are represented by the Institute of Professional Civil Servants to apply for the post. As a result of a staff inspection the terms of reference of the post have been widened, instead of calling it Factory Inspector the post is now a Safety Officer and it has been possible to recruit a more technically minded person with the right background. But I think, really, the Honourable Member has to be careful to get his facts right. He is wont to get up and to open his mouth on anything under the sun and he really has to be a little bit more careful precisely because he is living in glasshouses.

MR SPEAKER:

Are there any other contributors to the debate? I will then call on the mover to reply if he so wishes.

HON J BOSSANO:

Mr Speaker, I am not willing to withdraw the motion, I think, particularly because the Minister of Public Works started off by saying that he didn't accept that there was a lack of safety and in doing that he seems to have ignored completely what I said in my opening statement about the way that I had drafted the motion so as not to require the Minister to accept that there is a lack of safety, although I am telling him that I know that there is a lack of safety because I have been there myself and I have seen it. Although I am saying in the motion "the reported lack of safety", all I am asking him to accept is that there is a reported lack of safety - I am reporting it. And he cannot say that there is not a reported lack of safety because there is. I am telling the Honourable Member that there is, in fact, a complaint which has been put formally by the Union about the lack of safety, I am telling the Honourable Member that there is a dangerous working environment which will result in industrial action in a highly sensitive area which should be avoided but that even if none of these considerations were there, certainly, as he himself accepts and as the Chief Minister accepts, the Government itself on its own initiative should be looking into this and putting it right. I am not using this to censure the Government or to embarrass the Minister, I am using this to protect the people who work there and that is all I am concerned with. I am not asking for a public enquiry or anything else. All I am asking is for the Minister to look into the situation and to make sure that it is put right.

HON M K FEATHERSTONE:

I have said that I have looked into it and remedies especially the putting back of the guards are already, I think, in effect.

HON J BOSSANO:

I think the Minister has undoubtedly looked into it because of course the motion was coming up and he couldn't stand up here and not have looked into it but he has told the House that there is an unsatisfactory way of burning wood about which nothing much can really be done except that they are designing a new system and that in the meantime the people shouldn't splash too much water. The walls are cracked, Mr Speaker,

and the walls are 12 feet high and although it is more dangerous to be inside the compound when it collapses, it is still dangerous to be within a few feet of the compound when they collapse. They are cracked and half the bricks are missing. If there is no way of building a pile of wood 6 or 7 feet high and putting it alight and then having to put out that pile of wood because you have to go off work at 5 o'clock and you cannot leave the wood burning because that can lead to a fire and there will be nobody there to control it so you are required by your supervisor before you knock off to make sure that fire is out and you have to hose it down. And you can't control the water being on the centre of the compound and not touching the red hot bricks around it and when they touch the bricks crack and start flying all over the place. So even if you are not in the compound and even if the wall does not collapse on you, you can still get hit by a flying brick and that is not a very satisfactory way of doing it, nor is it a satisfactory way of doing it to have a way of burning wood where the rate of burn is below the rate of delivery because by a simple mathematical calculation the Minister will have to arrive at the conclusion that eventually they will be engulfed by the pile of wood since there are more lorry loads arriving than there are lorry loads being burnt, it is logic. I think the Minister since I have been at pains to stress from the opening that I am simply using the opportunity that I have by being privileged to be in this House to ask the House to join me in being concerned that there is such a report, not to accept that it is true, then the Minister should take it in that spirit and ask his department to give him a full report of all the things that are wrong and then not necessarily report back to the House but certainly report back to the men that the matter is being put in hand and something is going to be done. I do assure the Minister, whether he has given instructions to the effect or not, that people have been told by their supervisors: "Ah, yes, but this cannot be done until next year's estimates because there is no money in this year's vote". It may be that it is an easy way out. If you have got complaints from the shop floor the economic situation is the overall answer for every deficiency, I am not disputing that that may not be the case, but I do assure him that I am quoting from something that I know to be true, I know personally that it is true and therefore I am able to say that that is the case and stand by my facts, Mr Speaker, so I ask for the support of the House and I welcome the support I have had from my colleagues on the Opposition.

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

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House considers that the statutory minimum wages and conditions established by the Retail Trades Wages Council for Great Britain for workers engaged in the Food Trades outside London, should apply in Gibraltar". Mr Speaker, let me explain why I am bringing this motion to the House and what is the importance of the motion because I think it is a very important motion and I look particularly to Members of the Opposition and to the Honourable and Learned Mr Isola for support and I will explain why. In successive budgets, when the Financial and Development Secretary has made a statement on the movement of earnings in the economy and in the public and in the private sector, Mr Isola has drawn particular attention to this and called for protection for the underprivileged and unprotected workers in the private sector and I am giving him an opportunity to give me whole hearted support on this issue which I know is so dear to his heart. Since I know that the Honourable and Learned Member has regularly drawn attention to the disparity in wages and earnings between the public and the private sector and this motion spells out the causes of that disparity and seeks not, let me tell the House, the motion does not seek to close the gap, let us be clear about that, the motion seeks to keep the gap from widening. There is a situation and I think it is useful, Mr Speaker, perhaps to prevent misconceptions that I think have arisen on many, many occasions when we have talked about the public and the private wages and the public and the private sector and the wages in one and the other, and I have, in fact, in the past drawn attention to the important element of the composition of the workforce in one area and the composition of the workforce in the other area and the average is simply arrived at by adding the wages of everybody and dividing it by the numbers of the people involved. But, of course, if one takes the average wage in the dockyard one finds that the average wage in the dockyard is the highest in Gibraltar because it has the highest level of allowances and bonuses and premium payments and overtime. The basic wage today in the public sector is £101 for a craftsman irrespective of where they work and in the private sector in most of the areas where there are negotiations and where there are agreements, they are based on parity with UK. Almost every agreement that exists in the private sector in Gibraltar is paid on parity of wages with the United Kingdom. So we have a situation where the craftsman in MOD, DOE and the Gibraltar Government gets £101 a week, where a craftsman in the construction industry gets £97 a week, where a craftsman in the bakery industry gets £100 a week and you will find that every agreement in the private sector provides for that. We also have the situation where almost every unskilled labourer is either slightly above

or slightly below the rate that is established in the public sector. This is very relevant in a situation where we have, and let us not forget it is not part of the motion and I do not intend to introduce it, but I think it is very relevant because I am saying that this is an important motion in more respects than one. We have now got what is intended to be the biggest employer in Gibraltar, who will be the only employer in Gibraltar, unable or unwilling to meet parity with the United Kingdom which is the prospective manager of the commercial dockyard because the entire private sector is meeting parity with the United Kingdom and if the wages are lower than in the public sector it is because the wages are lower in UK. But as I have pointed out, Mr Speaker, today an unskilled worker in the public sector, male or female, at the age of 18 enters public sector employment, enters Government employment on Band 0 and at the end of 3 months of satisfactory service automatically goes to Band II and on Band II with the basic wage and with the £6 efficiency bonus agreed in UK this year, the wages for a 39-hour week is £85.86p and that is, effectively, de facto, the minimum earning level in the public sector. In the construction industry it is £83.07p, in the bakery industry it is £85, and one finds throughout the union agreements in the private sector that level of a craftsman at about £100 a week, a labourer at about £84/£85 a week. In the case of the retail trade, where the level of union organisation is extremely low, we are talking about a situation where something like 15% of the employees in retail trades are unionised and 85% are not unionised, and the 15% that are unionised are concentrated in something like 10 employers in Gibraltar who employ more than 5 or 6 people. Those employing one or two people in the main are not unionised and are very difficult to unionise. And the same is true in the United Kingdom where there are ½ million retail workers and possibly 100,000 unionised. And because of that the United Kingdom provides a statutory minimum wage laid down by law and we do here as well and what I am asking the House is to express a view that the statutory minimum wage in Gibraltar should not be lower than the statutory minimum wage in the United Kingdom because for the first time since I have had any knowledge of the situation, the Chamber of Commerce and the trade in Gibraltar have said that they are not willing to meet the statutory minimum wage. The statutory minimum wage in UK which is the one that the union has agreed in the past with the Chamber of Commerce, is £20 below the minimum in the public sector and if we are concerned about not having a true divided society in Gibraltar what we cannot allow, Mr Speaker, is that by law in Gibraltar we should permit wages that are lower than the minimum in UK and that the gap that has existed in the past because of lack of unionisation, I don't think the House is to be blamed or anybody else is to be blamed for the fact that shop assistants get no more than the legal

minimum because if they are not unionised, we live in a free society, there are very few employers who actually threaten people with dismissal or do anything to stop them joining the Union, people do not join the Union because they do not want to and therefore they have to stick with the minimum that the law provides because in UK the standard practice is that the Unions of shop assistants negotiate with individual firms, like Liptons and NAAFI, and Sainsbury and Boots, for their own employees over and above that the minimum is, the minimum is obtained by everybody. I am talking in this House about the minimum and not only am I talking about the minimum, I am talking about the lowest minimum, Mr Speaker, because the Union has gone really for the bottom in what it has asked for this year and every other year before because there is in the United Kingdom a Retail Trade Wages Council for different sectors and the non-food sector has got a higher minimum than the food sector and my motion referred to the wages in the food trade because that is the lowest of all the Wages Council.

HON P J ISOLA:

If the Honourable Member will give way. One of the things that we are going to ask him and I think he has answered it now, was why make the minimum wage applicable to the food trade in Gibraltar only. Am I right in understanding what he is suggesting is that there should be a statutory minimum wage in Gibraltar applicable to the whole of the retail industry in Gibraltar comparable to the minimum for food people in England. That is the motion? I see.

HON J BOSSANO:

The Wages Council, Mr Speaker, is called the Retail Food and Allied Trades Wages Council of Great Britain and that stipulates that the minimum wage for a shop assistant engaged in retail food and allied trades should be a rate of £67 a week which is almost £20 below the £86 of the public sector. There is, for example, another Wages Council which is the Retail Trade Non-Food Wages Council and that stipulates a higher minimum for people who may be engaged in selling consumer durable or things like that. In a place like Gibraltar the view in the Trade Union Movement is that you cannot really have shop assistants earning different wages, Gibraltar is too small for that and it would be an almost impossible task to try and say that if you are in a supermarket do we then assess what proportions are on food and what proportions are not on food. So in fact given that the biggest single group of terms of employment within the retail trade is the food group, the position of the union on this matter is that the rate that everybody should get paid,

and what the motion is in fact referring to is that rate which as I say is £19 below the minimum for a cleaner in the Government or a labourer. The position of the Chamber of Commerce has been to offer a 3% increase and that would produce as opposed to £67, £64.38p so we are talking about a situation where the wages in the United Kingdom have gone up something like £4 and the Chamber here has offered £1.88. The Chamber, in fact, has been told that given that these are legal minimum wages, the matter would be raised in the House on the basis that the House of Assembly composed as it is of Members who are committed to the principle of parity, should require that what is the legal minimum wage in the UK should be the legal minimum wage in Gibraltar. Let me say that this wage is fixed by the Regulation of Wages and Conditions of Employment Board which consists of 12 members four of whom are independents, four of whom are representatives of trade and four of whom are representatives of the labour force and that is the same as the Wages Council in the United Kingdom. And, in fact, what happened this year in the United Kingdom was that the minimum wage that was passed was passed with the votes of the independents and the trade unionists with the trade voting against and was higher than the minimum wage that I am quoting and the Government intervened not by overruling the Board, which it cannot do, but by expressing a view that the increase should be moderated and it was brought down effectively from an 8% increase to a 6% increase by delaying the implementation date. This increase of £67 which should have been implemented in UK in April and in Gibraltar in July, effectively has been introduced 6 months later in the United Kingdom in the beginning of October and here if the Board were to decide to accept the introduction or the application to Gibraltar of the UK rate, obviously, it would mean that here in Gibraltar the rate would not become law until about January because of the time it takes since there has to be a statutory period of 21 days' notice during which people can object and indeed the business community could object. But I think that there are important considerations which justify my raising the matter in the House and which justify my asking for the support of this House in the knowledge that all I am asking the House to do is to express a view which will carry weight with the Board that has got the job of fixing the wages because the House cannot fix the wage unless we change the machinery. But just like the Government in the United Kingdom wrote to the Board and asked them not to implement the 8% increase in April and the Board in consideration of the Government's view deferred it until October, I am asking this House to express a view so that when the Board meets to decide what the statutory wage should be because it will be done by the Board this year since no agreement has been possible, and I say that I quite frankly think that major employers in the private sector such as, for example, Liptons,

who has been one of the companies to refuse to meet this increase, are in my view acting in a very irresponsible and unfair manner to their employees in that whilst the workers in the trade who are all fully aware of the level of business because they handle the business, are conscious of the fact that there are some sectors of the trade who are suffering and suffering substantially as a result of the frontier, certainly Liptons is not one of them and it certainly cuts no ice with the people who work in Liptons who know just how much is being sold to be told that because other people are selling less and other people cannot afford the increase then the ones who are doing better should not be able to. This is why I am talking here of a standard which we would like to see established in Gibraltar below which nobody should fall and then I think it is a matter in specific areas for employees to assess whether if one particular sector is doing better than average, then that benefit is something that should be to some extent reflected in the people in that particular area doing better than average but that the average, I submit, Mr Speaker, in the view of this House should not be less than that in the United Kingdom and I really cannot accept that a movement in that direction puts at risk the viability of the trading community but a failure to move in that direction certainly puts at risk the whole of the wages and salary structure that we have built in Gibraltar by doing what the Honourable and Gallant Member Major Peliza, I think, wanted to see done as far back as 1973 when he brought a motion to this House asking the House to support that we should aspire to UK standards in wages and conditions, a motion which was defeated in 1972. I think parity achieved it in 1978 and I ask the House to reaffirm its support of parity by expressing the view contained in the motion. I commend the motion to the House.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I do not propose to enter the discussion in terms of discussing the policy merits of the motion as it stands but merely to address myself to two points of facts. The first one was raised by the Honourable Mover of the motion and I think that he will agree with me that whenever the Financial and Development Secretary has during budget time explained that there is a disparity between earnings in the private and public sectors, that this is not simply a function of differing wage levels between the two sectors but also the function of the higher proportion of non-industrials to industrial employees in the public sector as opposed to the private sector

and obviously a function of higher overtime levels in the public sector.

HON J BOSSANO:

If the Honourable Member will give way. I think he will find that for example there is a specific reference in the last employment survey, to go no further than that, of a differential of 35% between the average earnings of full-time female workers in the public and the private which is not surprising because I have mentioned the difference between £60 and £80, well, that is a differential of 30%.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I do not dispute the differential and I do not dispute that the basic wage has a lot to do with it. What I am saying is that there are other variables to the equation, that the proportion of numbers employed as non-industrials to industrials has a bearing on the matter. I think the other point, and I am going to be very, very brief, is that I don't think it is quite correct to say that the minimum wage in the public sector is in the region of £85+ per week, that, I think, is obviously the case for the industrials but there are areas among non-industrials where the minimum wage today, having regard to the July pay settlement this year, would probably be in the region of about £70 to £75, I agree it is more than the minimum wage which the Honourable Member is suggesting is applicable.....

HON J BOSSANO:

If the Honourable Member will give way. Let me say that I dispute what he is saying. First of all, I have in fact been limiting myself to industrials throughout, both in the comparisons that I have made and in the wages to which I am referring and I am referring to people who are adult workers, not to people of juvenile rates and I am referring to a 39-hour week. If he takes all those into account he will find I am right.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I am going by salary scales as in the estimates for this year and I have applied very quickly a 5% increase across the scale and there are areas, irrespective of age, if you go into main scales which is 18+ in the non-industrial grades, areas like typists, clerical assistants, where the

minimum basic salary or wage would be in the order of £75, £72 just below £80. It is not materially important because, obviously, it is more than the minimum wage which the Hon Member is suggesting it should be. I don't think it is true to say that in the public sector, generally, the minimum wage would be £85+ a week.

HON J BOSSANO:

No, Mr Speaker.....

MR SPEAKER:

No, we are not having a debate within a debate.

HON J BOSSANO:

I must clarify the point.

MR SPEAKER:

You have the right of reply.

HON J BOSSANO:

I think the Honourable Member was saying that it might be across the board, but it is not across the board. The figures that I have quoted, £85.86, is the rate for a Band II labourer and there is nobody below Band II in the public sector in the industrial field and these are industrial workers. That is the only comparison I am making.

MR SPEAKER:

Any other contributors?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I can be accused of many things but one thing that I can never be accused of is that I do not speak out my mind. I think I always speak out and it sometimes bounces back and I put my foot where my mouth is but I think that whatever my limitations and my poor oratory I could never be accused of not being outspoken in everything I say. I am a bit restrained in the way I am going to speak today on this motion moved by the Honourable Mr Bossano. I think Members will realise that I

have to be very careful and measure my words and not be as outspoken as I usually am. I believe the Government and this House should not support the motion presented by the Honourable Member Mr Bossano and I am not going to discuss the merits of his case. My reason for asking this House not to support this are based on machinery. I believe that if we pass this motion in this House at this moment we would pre-empt the functions of the Regulations of Conditions of Employment Board which actually deals with the employees the Honourable Member is concerned with mainly. The board is set up under the Regulation of Wages and Conditions of Employment Ordinance and is composed of 4 representatives of employers, as the Honourable Member has mentioned, 4 representatives of employees and 4 independent members under the Chairmanship of the Director of Labour and Social Security. Its function, inter-alia, is to make recommendations to the Governor as to any general minimum standard conditions of employment and its objective in this respect is to afford protection to employees in those areas where the collective bargaining machinery is inadequate and certainly in the retail distributive trade where you have a shop with only 1 employee etc, it is very difficult to conduct collective bargaining. To this end an order was made on the 1st September, 1968, to regulate conditions of employment in shops and other retail establishments. The order laid down minimum rates of wages, the maximum number of hours which may be worked in any week, minimum rates for the payment of overtime and conditions under which employees are entitled to a guaranteed weekly remuneration. The order is reviewed and recommendations for updating are made by the Board to the Governor on a regular basis. The Board has wide powers to call for whatever evidence it may require on which to base its recommendations and the Government is satisfied that this machinery is adequate and that the Board is the appropriate forum for considering the present inability to reach agreement between the union and the Chamber of Commerce on this matter. A meeting of the Board has been called for Thursday 27th October to consider the matter and the Government considers it would be inappropriate at this stage to support a motion which would influence the Board in its deliberations.

HON P J ISOLA:

Mr Speaker, the Minister for Labour is of course absolutely right in what he says although I notice the Government in opposing the motion really beg the real issues at stake. I say he is absolutely correct in what he says because if there is a machinery under our law for setting the minimum wage that should be earned and there is on the Board representatives of employers, representatives of employees and independent persons,

any motion that tells them what they have to do could be legitimately regarded by that Board.....

HON J BOSSANO:

Mr Speaker, it does not tell them what they have to do. It says what the House thinks should happen.

HON P J ISOLA:

Yes, but it would take away the functions for which they have been set up and I say why it would tell them what they have to do for this reason. Not because of the opposition, whom the Honourable Member is so anxious to enlist their support... He never wanted our support before, Mr Speaker, but now he seems to be very anxious to get it, it is not that, it is the Government. If the Government vote in favour of this motion then any recommendation that the Board put through the Board knows what is going to be the result. Mr Speaker, far be it for me to use the argument against the Honourable Member and against the Government which they have used against us continuously when we ask about what is happening in the generating station, what is happening there, and they say "We cannot interfere, there is a board, negotiations, we will not answer, we will not give you any details". And now we are being asked to interfere in what is essentially a matter between employer and employee. So I say the Minister is absolutely right because the Honourable Member is really hung on his own petard here in that respect when he has been so anxious always to say the union and the employer have to come to a decision and the House should not tell one or the other what they have to do. Mr Speaker, this motion has really come before the House, as I understand it, as a result of a breakdown of negotiations between the Chamber of Commerce and the Unions and the system, as I understand it that has worked in the past and worked satisfactorily, is that the Regulation of Wages and Conditions of Employment Board has really been used as a rubber stamp. The union has agreed, the employers have agreed and the Regulation of Wages and Conditions of Employment Board has put its rubber seal and the Governor has put his rubber seal and everybody have put their rubber seal and in fact they have been paying their wages long before they became the statutory minimum wage. That has been the practice, it has worked and who are we to interfere.

HON MAJOR F J DELLIPIANI:

It has been the practice of most employers. Some employers

have waited until the actual Order has taken gazetted, let me clear that point.

HON P J ISOLA:

I am glad for that correction made by the Minister. The Honourable mover has referred to some particular establishments that can pay the wages and are ducking the issues. I suppose there are other establishments who could also pay the wages but who are not being pushed to pay them. It is a bit of one and a bit of the other but let me tell the mover the position of my party without wishing to influence the Regulation of Wages and Conditions of Employment Board or anybody else. We support the principle and this is what we have said always. We have been consistent unlike the Government. We support the principle of the equivalence of earnings. That is the principle, that is the policy of my party, equivalence of earnings with the United Kingdom. This we have said since 1973, 74, 72, I cannot remember which, and when the parity debate was on the Honourable Member will remember that we said we should move gradually towards parity and we have been consistent in this. So the Honourable Member shouldn't say: "Well I wonder what the DPBG are going to say?" We have always said the same thing. What he should have been wondering is what the Government were going to say who were against parity, who said it would bring Gibraltar down in flames and so forth and then promptly accepted it and said it was the best thing that happened and who are now doing a U-turn in suggesting that parity cannot now be maintained because of Appledore and commercialisation and so forth. As the Honourable Member well knows the signs are that we will go off the parity standard in Gibraltar within a period of time and that is not something that we welcome on this side of the House at all, Mr Speaker, but it is something that is happening, we can see it, and therefore the Government, as I said, have just said in this debate enough to be able to vote against the motion of the Honourable Member. But what they have not said is that even if there was not a Regulation of Wages and Conditions of Employment Board, they could still not support the motion because they themselves are supporting an enterprise that has more or less put everybody on notice that it cannot maintain parity. But as far as this side of the House is concerned I think we are consistent and we have stated our policy on equivalence of earnings and on parity. That is why this particular motion, Mr Speaker, in any event would not be very welcome to us because we think it would be artificial to relate minimum wages of a worker at the Casino or a worker in Liptons, or a worker in a retail trade shop or an electronic shop, just to one particular trade in England. But that is not really, Mr Speaker, the point. The point is, as the Honourable Member so rightly pointed out, the point is

that we on this side of the House are seriously concerned and very concerned about the differential in earnings between the public and private sector. Of course we are very concerned. This motion does not solve that problem, it does not solve the basic problem, Mr Speaker, of two societies in Gibraltar, it would just give people working in the private sector a few quid more, put it that way, it does not solve the real problem and the real problem is that the level of expenditure in the public sector, the lack of efficient administration in the public sector, the lack of the Government to face the problem of the economic recession that we are going through is accentuating this differential because the Government can always obtain the money, they either tax more, put up their rates for electricity put up their rates for water, the Honourable Member is only too much aware of over £1million that has gone down the drain whilst unions and management and Mr Edwards who spends £100,000 of our money in Gibraltar, argue these matters. And all that money, Mr Speaker, has to be paid for out of the earnings in the public sector, true, but in the private sector it has to be earned from what they are able to sell, from the services that they are able to provide. But the partial opening of the frontier, Mr Speaker, has affected that trade, has affected that capacity to pay and it would be idle to ignore that. The Financial and Development Secretary was only telling us yesterday about £5million in one year spent in Spain and a loss of Government revenue of £2million. Only yesterday he was telling us that there was already a drop of £500,000 in import duty receipts. Well, what is that? What is that due to? It is due to the fact that we are not selling. That is due to the fact, Mr Speaker, that the people of Gibraltar, the people in the public sector or the private sector or whatever you will, are spending their money outside Gibraltar and that must have its effect, Mr Speaker, on the trade. It is idle to say that the Chamber of Commerce has suddenly become dreadful and terrible. They have come to an agreement with the unions every year, we are told. Difficulties have arisen this year, Mr Speaker, and it is quite obvious to us on this side of the House, as it must be to the Government, the reasons why these difficulties have occurred this year and the difficulties are contained in the statements made by the Government, in the statements made by the Financial and Development Secretary in this House as to the effect on the economy and particularly the private sector of the partial opening of the frontier. These are economic facts and although it is very nice for us on this side of the House, or the gentlemen opposite on that side of the House to embrace and promote questions of policy and of principles, when it comes to hard facts that has to be looked at and that is why, Mr Speaker, in this particular case, having pointed out the problems that it did, that is why in this particular case it would seem to me and I say this in all sincerity, that for once

let the Regulation of Wages and Conditions of Employment Board do its job. Let them meet, the employers and the employees put their case, let the independent members form a view, that is why they are on that Board, and let us see whether they make a recommendation to the Governor that is acceptable to both employers and employees. Let us see if that happens. The Board is there and it should be asked to do that job and it is basically because of that that we reject the motion. But we cannot, Mr Speaker, reject a motion of this nature without looking at the situation as it exists in Gibraltar. We cannot live in cuckoo land, Mr Speaker. If people in Gibraltar choose to go and spend their money in Spain or spend a lot of it in Spain, there must be consequences and there must be consequences, we know there are consequences for the Government revenues and we know there must be consequences as well to the private sector and we have to recognise that fact I think that it is unfair of the Honourable Member in these circumstances to try and bamboozle or force the Regulations of Wages and Conditions of Employment Board to come to a conclusion by a motion passed in this House. They have got a job to do and the final decision rests with the Government because that is what the Regulation of Wages and Conditions Employment Board Ordinance says. They make a recommendation to the Government and it is that Government that has to decide whether to accept it, send it back, amend it and so forth as is set out in this Ordinance. It seems to us that this particular motion is an interference with the due process of negotiation of the statutory machinery put up. I know the Honourable Member says that all he is asking for is the opinion of the House but he is asking for the opinion of the House on a crucial matter that would in fact conclude the deliberations of the Board. For example, let us suppose that we pass this motion as it is. My Honourable Friend would go to the Regulations of Wages and Conditions of Employment Board and say: "These are our recommendations, a, b, c, d, and this has been accepted by the House as a proper basis. Let us suppose, for example, for arguments sake, that the independent Members of the Board do not go along with the Honourable Member and a recommendation is made to the Government of a lower sum. The Government would then have to, in my view, having voted for this motion, would then have to send the thing back to the Board, and say: "Look, we think you ought to consider this because this is what we think should be the proper wage". So we would be in a hopeless and difficult situation, or the Government would. That does not worry us particularly, Mr Speaker, that they should be in a difficult situation but I recognise the problem. I think one just cannot dispose of this motion just by reference to the Regulations of Wages and Conditions of Employment. I think that we all have to be realistic in the situation that is facing Gibraltar, the

economic situation that is facing Gibraltar and all we can do is express the hope that employers and employees will come to a reasonable settlement and if they cannot come to a reasonable settlement that the Regulations of Wages and Conditions of Employment Board will make reasonable recommendations which the Government can feel able to support. And one last thing, Mr Speaker, and that is one thing that I think must concern the Honourable Mover, as indeed it concerns his colleagues in the United Kingdom, and that is the effect on employment of the diminishing cake in the private sector. We already know of redundancies, I am not mentioning Blands because that was a bigger thing and it has to do with Appledore and so forth. Just in other places people being dropped from employment here and there because of the economic situation. I think what my Honourable Friend ought to do is to bear those things in mind when negotiating, take the whole question to the Regulation of Wages and Conditions of Employment Board and see if they get a fair answer. I have got a lot of sympathy with the Honourable Mover when he talks of a particular firm, I will not mention it, which is making a lot of money and should jolly well pay. I do not know whether that firm is not paying because it says it cannot afford to pay or whether it is not paying out of solidarity as a member of the Chamber of Commerce. In the same way if the Chamber of Commerce said you pay more they will have to pay, if the Chamber of Commerce says you pay less I do not know whether that firm is acting in solidarity. Unfortunately, Mr Speaker, you cannot legislate or you cannot make rules except through trade union pressure. You cannot make rules and say: "You, Mr Liptons, will pay more but you, John Smith, you can pay less". You cannot do it. The only people who can do that are trade unions in negotiation, that I agree. If this particular firm can afford to pay more the trade union no doubt has its resources for trying to force the issue. But as far as the motion is concerned, Mr Speaker, we cannot support it for the reasons I have stated.

MR SPEAKER:

Are there any other contributors? I will then call on the Mover to reply.

HON J BOSSANO:

Mr Speaker, I reject entirely the arguments put forward by the Honourable Member. The purpose of the motion is quite clear, it is to influence the decision of the Board, of course it is. Just like he is saying about the open frontier and the facts that there is so much money being lost over the other side, that is a fact that is going to be used to try and influence

the Board in the opposite direction, there is no question about that, and I have told the House that Mrs Thatcher whom the Honourable and Learned Member is such a great admirer of, interfered in UK by writing to the Board and saying the Government thought they should delay the implementation of a wage increase that had already been agreed. I think it is a perfectly legitimate political function for this House to express a view on what is a crucial matter for all the reasons the Honourable Member has spoken about. I don't see how one can talk about union with Britain, equivalence of standards with Britain and so on but we have to be living in the real world and not in cuckooland. Well, is it in cuckooland to want union with Britain or not, is it in cuckooland to want equivalence of standards or not? And what does equivalent of standards mean? What the motion seeks to have support for is the acid test of the commitment of this House of Assembly to equal.....

HON P J ISOLA:

I am sorry, I think I have misled him, equivalence of standards is the word I used, I meant to use equivalence of earnings.

HON J BOSSANO:

Well, I think that on the question of equivalence of earnings, in fact, the Honourable Member may wish to know that average earnings in UK are about 20% higher than in Gibraltar because average earnings in UK takes the earnings of the nation and the earnings of the nation includes coal miners, North Sea oil people and all sorts of very high paid trades that we do not have in Gibraltar so the average means little, the average wage in Gibraltar.....

HON P J ISOLA:

If the Honourable Member would give way. Perhaps again I am misleading. What we mean is equivalence taking into account, for example, tax allowances, tax rates, the cost of transport, the equivalence in that respect. It may not be earnings, I may be using the wrong word again.

HON J BOSSANO:

I can tell the Member that this particular relationship was found to be virtually impossible to identify in 1976 to 1978. In fact, when Scamp recommended 80% of UK rates as the equivalent in Gibraltar, Scamp came up with this formula saying £80

in Gibraltar is as good as £100 in UK. That was disputed. And because it was impossible to prove conclusively and beyond doubt whether £100 in the United Kingdom is worth £110 in Gibraltar or £90 in Gibraltar, it was eventually decided that the only practical and pragmatic way to produce the nearest thing to equivalent standard of living was to give people the same basic wage and that is what we have in Gibraltar the same basic wage. But what I am saying is how can one be concerned about the disparity between earnings in the public and private sector, and quite certainly however much money the Government wastes and whether they have a Chairman of a Steering Committee that spends £100,000, that does not change one single iota, one single penny, the difference in basic earnings of workers which is based on pay agreements signed in the United Kingdom. A cleaner in the Government Secretariat gets £85.86p for a 39-hour week, not because we have got a Steering Committee, not because £1million is being spent on the new Generating Station but because that is what a cleaner in Whitehall gets, that is why, and a shop assistant should get £67 in Gibraltar because that is the legal minimum in England, not because it is right, not because the £19 are justified but because in fact in a place as small as Gibraltar we have never been able in the past to find a satisfactory way of establishing differentials which are accepted by everybody until we came to parity and when we came to parity we had a lot of people moaning that they had done less work and in fact the shop assistants, let me tell the House, because again this business of gradual movement towards parity because of the private sector is total and absolute nonsense and it shows total and complete lack of knowledge of the facts, Mr Speaker. There was no need to move gradually towards parity in the private sector, the private sector was already there. The private sector raised wages in Gibraltar in 1974, 1975, 1976 and 1978 and the public didn't, and when the public sector implemented parity, the public sector went above the private sector because in an area like the shop assistants before parity a shop assistant was getting £10 a week and a labourer in the dockyard was getting £10 a week. When we got parity, the shop assistant got £11 a week because they got the minimum statutory wage, and the labourer in the dockyard got £15 a week and that created the differential. Not because the shop assistant moved too fast, they did not move anywhere, they were practically on UK rates before parity in Gibraltar because the rate in Gibraltar was £10 for everybody. And £10 for everybody was in fact 30% or 40% below the UK rate in the dockyard. But 30% below the UK rate in the dockyard is the statutory minimum wage of the shop assistant so the shop assistant had parity before anybody else in Gibraltar had it. The only thing was that it was not called parity and it was not based on the minimum wage but when in 1978 in the first negotiations the Chamber of Commerce discovered what was the

minimum wage in UK, they discovered that they were already there and they came along to the union and said "No problem, we will give you parity," because parity meant a 20p or a 30p increase. They were already paying the rate without reference to UK, by reference to what was the going minimum rate in Gibraltar. That created the differential. What I am saying is that one cannot say on the one hand one is committed to this principle, one is concerned about Appledore coming in and breaking the principle of parity, without saying quite clearly for the benefit of the Board and for the benefit of the Chamber, that there is a matter of principle at stake to which there is a political commitment by Members who have been elected to this House that there is a minimum in UK and that that minimum should be the minimum in Gibraltar. And it is not a negotiable thing, how can a minimum be a negotiable thing? I would accept, Mr Speaker, all that the Honourable Member has said about not interfering in the independence of the Board and not interfering in free collective bargaining if the situation was that the union here was asking for £90 and the Chamber was offering £70 and one had to find a realistic and sensible level but the minimum is the minimum and the Board is being asked to rubber stamp the minimum and it is not a negotiable thing. The moment you go below that minimum you have given up the concept of parity and the moment you give it up in one area you put it at risk in every other area and nobody who is not prepared to show his 100% commitment to that principle cannot carry on breaching it unless all he is trying to do is not to gain displeasure in any quarter so he tells the workers that he wants parity for them and he tells the employers that he understands their difficulties and he tells them both that they are independent and that way you are on safe ground because you don't get anybody against you. I think that this is a matter of principle where people have got to stand up and be counted. I stand up to be counted not only as a trade unionist but politically. I and my party are 100% with the question of parity with the United Kingdom. We think that it is a thing not only that it has been fought very hard but that in fact it follows naturally from the commitment of my party against colonialism because to be in a British Colony and to have a rate of pay below what somebody in the metropolis gets is to accept being a second class citizen in economic terms and I think the greatest and the most important move made in Gibraltar's history in getting equality between the United Kingdom and the Gibraltarian people has been precisely in this question of wages, the only colony, Mr Speaker, where people have been considered to be worth what their skills are and not the colour of their skin or whether they were born here or in the UK and therefore the principle is a principle to which my party is fully committed and I ask the House to show that other members and other parties are equally committed to that principle by supporting the motion.

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

The Hon J Bossano

The following Hon Members voted against.

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 A T Loddo
 The Hon R J Peliza
 The Hon J B Perez
 The Hon G T Restano
 The Hon Dr R G Valarino
 The Hon H J Zammit
 The Hon E G Montado

The following Hon Members were absent from the Chamber.

The Hon W T Scott
 The Hon D Hull

The motion was accordingly defeated.

HON J BOSSANO:

I won't express any optimism this time, Mr Speaker. I beg to move that: "This House considers that the minimum qualifying service for entitlement to an occupational pension for Government industrial workers should be reduced from 20 years to 10 years as a matter of urgency". I do not know whether this will be seen as a way of giving more privileges to people in the public sector but perhaps let me explain that the group to which this motion refers is in a situation which is totally indefensible and totally discriminatory but that is not the primary reason why I am bringing the matter to the House. I am bringing the matter to this House because in fact against the background of the review of employment policies referred to by the Honourable and Learned the Chief Minister in terms of Government employment when he said that the Government, apart from the package of the dockyard and so on, was in consultation with the unions looking at employment policies, as the Honourable Members will recall, it is against that background that I can tell him that unless he supports that motion he is in fact frustrating what he is attempting to do, and I will explain why. The Government of

Gibraltar pays a pension to a non-industrial after 10 years service and to an industrial after 20 years service. That in itself should be sufficient argument for removing the anomaly. I know that it is a relic of the past but I cannot see how anybody can defend that an industrial worker should do 19 years for the Government and live without a pension and a white collar worker should do 10 years for the Government and get a pension. The United Kingdom Departments pay a pension after 7 years. The United Kingdom Government in UK pays a pension after 5 years but the primary reason for asking for this to be reduced as a matter of urgency, and there is a reason for the urgency, is that the Government have got a lot of people who are over aged. And the Government wants these people to retire and those who are over aged and who have joined the service at the age of 50 and over cannot retire until they reach the age of 70 and over unless they retire without a pension and they give up the years of service that they worked for the Government. Therefore the Union although, in principle, accepts the desirability of people retiring at retiring age and opening up opportunities for younger people, they cannot in principle accept that people should be recruited at 52, do 18 years for the Government and then be retired after 18 years without a penny for their 18 years' service. In fact, in order to carry out the process of reducing the number of people over the age of 65 and at the moment retirement over 65 is being limited to those with more than 20 years' service and there are people I can assure the House in Government who are 68 who are working, who have got 18 years' service and who will have to wait until they are 71 before they can retire or they will retire without a pension. I think to move pensionability to a minimum of 10 years which is already there for white collar workers, removes an indefensible discrimination between two types of Government employees and opens up the opportunity for a greater pace of retirement of those overaged, many of whom are hanging on precisely because they are not prepared to go without getting a pension. Those two, basically, are the arguments behind this. Again it is a matter that the employees themselves have raised with Government but I am bringing it to the House in the knowledge of how long it takes to get results in these things because I brought to the House in 1979, as I mentioned before, a motion on pensions for part-timers which was carried unanimously and it still hasn't been put into effect so perhaps some time before the end of this century if we pass the motion today we may get some results.

Mr Speaker proposed the question in the terms of the Honourable J Bossano's motion.

HON A J CANEPA:

Mr Speaker, the Honourable Mr Bossano has given some useful background to this matter and I would like to amplify a little further because I think it will help all members in seeing the matter in its full prospective. I want to set the scene, really, to a fuller extent, not just about the provisions of the pension legislation but also with regard to what the policy on retirement has been in the past. The pensions legislation at the moment does not prescribe a maximum compulsory retiring age and what has happened is that up to 1969 the policy was in fact to require industrial employees to retire at the age of 60 but the shortage of labour which resulted from the closure of the frontier made it necessary for the Government at the time to relax this policy and to allow industrial workers to remain in employment beyond the age of 65 subject to medical fitness, and I don't think we have to go into the reasons for that but I think they were sound labour and economic reasons for doing that which were of benefit both to the economy and to the labour force in Gibraltar. Employees who would not have otherwise completed the minimum qualifying service were thus placed in a position which encouraged them to aim to stay in employment until they had completed the 20 years minimum qualifying service or alternatively until they were retired on medical grounds which automatically made them eligible to a pension after having completed 10 years' qualifying service because as the Honourable Mr Bossano has explained, the position is that in order to qualify for a pension other than on medical grounds or on redundancy for that matter, an industrial worker must have reached the minimum retiring age of 60 and he must have completed 20 years' minimum qualifying service. This has led to the situation, therefore, in which all industrial workers naturally expect to be allowed to stay long enough in the Service to earn a pension and I think it is abundantly clear to the Unions and to the Staff Association, chiefly to the TGWU, of course, which represents and has negotiated rights for industrials, that the serious unemployment situation which is developing in Gibraltar is invariably going to compel the Government before very long to exercise a much stricter application of compulsory retirement age and the likelihood is in fact, this has been thrashed out in consultation with the Union, that we shall have to require people to terminate their employment at 65 unless there were to be very compelling reasons for doing otherwise, either by way of hardship or by way of the fact that we do happen to know that a particular individual has got skills or an expertise and that if the post were to be left vacant it cannot be readily filled, it cannot be readily filled by a Gibraltarian. The Unions, naturally, whilst I think going along with the Government to a very considerable extent in that they

want to maximise employment opportunities, are trying to ensure that the prospects of their member being able to earn a pension are protected as far as may be possible. I am not going to deal with the question of the improvements in Ministry of Defence pensions because I know the Chief Minister wants to say something about that. If the motion were to be accepted, industrial workers would still have to reach the minimum retiring age of 60 but they would only need to complete 10 years for the minimum qualifying service in order to be eligible to the pension on retirement on grounds of age. On the Government side we consider that there are many points in favour of this motion. Undoubtedly, industrial employees over the years have progressively acquired conditions of service which have brought them almost at a par with non-industrial employees but pension benefits is one of the few areas left where the gap has remained almost as wide as ever. And whilst pension conditions for industrial workers have improved in the Ministry of Defence, particularly in the past few years, their counterparts in the Gibraltar Government have not yet derived commensurate benefits. It could be argued, I think, that by the time an industrial worker reaches retirement age of 65 they are going to become eligible to the old age pension and they do not therefore suffer any hardship if retired without a pension but I think it must be remembered that today nearly all persons in official employment draw an occupational pension in addition to the old age pension and that is becoming increasingly an established feature of life in Gibraltar. A reduction in the minimum qualifying service coupled, perhaps, with other incentives, could encourage early retirement and it could remove the need for industrial workers who are retired without a pension to seek re-employment in order to maintain their living standards so this would help both the present and the developing unemployment situation. Against the motion, though I have to say that, firstly, because of the short notice which has been given it hasn't been possible for me to obtain any information regarding costs and I think it is necessary to produce a cost analysis which will give an indication of the additional recurrent expenditure that a reduction along the lines sought would represent to the Government but it is undoubted I think that a concession of this nature which is going to result in an advancement, an improvement, in pension benefits will have considerable financial implications and more so because of the current financial situation the matter has to be given very serious consideration before a decision is taken. We have in the not too distant past made a number of concessions already under the existing pensions legislation some require enactment and viewed I think from a wider perspective which would embrace pensions for not just industrials but permanent and pensionable officers, I think care has to be exercised before we grant further concessions in any particular

area of the pensions legislation without examining other areas where perhaps in the case of the Government compared to other employers, to other employers in the public sector, we are perhaps being over generous. This point may not have a direct bearing on the motion but I think it is one that the Government cannot possibly disregard in the overall context of conditions of service. The motion is not unreasonable and I think it is difficult to reject it on grounds of policy relating to conditions of service but there are grounds for objection because of financial repercussions at a difficult and uncertain time where the Government cannot look confidently to a future and be certain that it can meet such commitments. To sum up, Mr Speaker, the attitude of the Government is that the claim for a reduction in minimum qualifying service is a fair claim and it is one that we cannot reject lightly because we do recognise the unfavourable pensions conditions which Gibraltar Government industrial employees have compared to non-industrials but I think we have to act in the responsible manner which is expected of the Government and therefore we must adopt a cautious attitude and we require to carry out an in-depth study of the financial implications of this motion before we can really decide whether to accept the commitment. The Government, Mr Speaker, considers that the motion should be amended and I am therefore moving an amendment to this motion whereby I beg to delete all the words after the word 'that' in the first line thereof and substitute them by the following:- "possibility of reducing from 20 to 10 years the minimum qualifying service for entitlement to an occupational pension payable to non-pensionable officers under Pensions Regulation 5 be given consideration, and the outcome thereof reported to the House as soon as completed." I know what the immediate reaction of the Honourable Mover is going to be and that is the time element. He has been waiting five years to have legislation enacted on the question of part time service and obviously we cannot wait five years for this and the matter is fairly urgent because it is an intrinsic part as viewed from the Trade Union side of the steps that are being taken to adopt a new employment policy that will enable Gibraltar to face the difficulties of unemployment from a position of greater strength. What I am prepared to undertake, Mr Speaker, is that between now and the time of the next general election I will put my weight behind this personally, I will badger and cajole and push members of the Establishment Division and of the Treasury to the extent that the Treasury may also be involved so that they get on with this exercise. I think if I am myself moving this amendment to the motion and if I ask Honourable Members to support the amendment, the least that I can do is to put my own personal weight behind the matter. Mr Speaker, I commend the amendment to this House.

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

HON J BOSSANO:

I am prepared to accept the amendment of the Government. In a way I am grateful for the Government amendment because as I have mentioned in relation to the previous motion where the House expressed a view, having expressed a view very little notice has in fact been taken if one is to judge by the practical result. So to the extent that the Honourable Member, the Minister for Economic Development is taking upon himself the responsibility of pushing this matter and bringing back an answer then I think the amendment is an improvement on my original motion. Let me say that I don't share his view about the costs or the difficulty of carrying out the thing and I will explain why because I think part of the argument for the amendment has been that it needs to be costed before the Government can commit itself. If the Government accepts, and that is really the crucial element when we are talking about costs, if the Government accepts the morality of the case that I have made that it is wrong to force somebody to retire in order to deprive them of a pension, if the Government accepts that that is wrong and that they shouldn't do it and that they would not want to do it, then effectively what you are talking about is paying a pension earlier at a lower level. If you allow somebody who is 68 years old today to stay on until 70 so that he qualifies for a pension and if the Government accepts that that is the right thing to do, obviously if the Government is going to say, "Well, I am going to take advantage of all the people who have done 19 years and then retire them all at 19 so that I can avoid paying them a pension at 20", then the cost of doing this is very high and I am assuming that that is not the way Government is tackling the situation, the Government recognises that people who have worked for many years in the expectation of getting a pension should not because of the circumstances that there are more unemployed now than there have been in the past suddenly be forced to retire when there are no good reasons for them to retire other than leaving a vacant job, and to be forced to retire without a pension.

HON CHIEF MINISTER:

The Honourable Member will give credit to the Government that it goes out of its way many times to help the completion of a period in order that the person gets a pension.

HON J BOSSANO:

I do indeed, Mr Speaker, that is why I am asking I am working on that premise, on that assumption, and if I am working on that premise and on that assumption then the cost is not all that high, if that was not true then the cost would be much higher, that is what I am saying. But if one assumes that that is true then in fact the cost is that if somebody is allowed to retire today, he retires earlier, he gets the money earlier because we would have got it anyway but of course he gets less because he doesn't get the 20 years. Somebody who leaves with 10 years will get a pension which is 10 times three quarters of his weekly wage which is the proportion of pension that the Government pays, it pays three quarters of a week's wages for every year of service. That is what an industrial gets so what we are talking about I think is a not too difficult exercise of finding out how many people there are in Government service over 65 and how many of those have got less than 20 years' service and what it would mean to allow them to have a reduced pension if they were retired now. I am quite confident that I could do it in a matter of a couple of days. I am supporting the Government amendment so I hope the Honourable Member can in fact use his considerable weight and influence of the considerable machinery of the civil service to produce in a number of months what I think I can do in a couple of days.

HON CHIEF MINISTER:

What I wanted to say with regard to the question of the present disparity between the Ministry of Defence and the local one is that in fact we in the City Council in the 1940's very shortly after it came into being or a little time after that, we were the first to introduce pensions for industrials. There were no pensions for industrials in the municipality, there were no pensions for industrials in the Government and there were less pensions for industrials in the Ministry of Defence or the Services or the United Kingdom Government employees. It was only as a result of the City Council having introduced this that the Government followed it because we were able to do it on our own, then we had full power, there wasn't full power in the Government, it was only when we were able to introduce it in the City Council that the Government had necessarily to follow suit and then later on the MOD had necessarily to follow suit but then it was as a result of the application of pension legislation in the United Kingdom having been improved that as a result of parity they applied to Gibraltar and that is why the conditions of pensions now are not any particular result of any generosity on the part of the Ministry of Defence applying it to its employees in Gibraltar but it is the effect of

applying parity of conditions of employment to Gibraltar. Really it is always a matter of progress and at what rate you make it and who can make it first. As the Minister has said it is something worthy, it could also mean in many cases to some extent or it may not be all, some savings in respect of those who may not have been able to get the full benefit of the old age pension and who may be getting a reduced old age pension who may therefore by getting a pension be exempt from applying for supplementary benefit. There may be a few of those cases, they may be marginal but it is better always to get a pension as of right than to get anything as a result of an application.

HON MAJOR R J PELIZA:

Mr Speaker, we are in the happy position of being able to agree with the mover of the original motion and the Government in this instance. I think the Honourable Member has been very wise to bring this at this stage and clever, I think, in accepting the amendment. I don't think he need fear in this instance that the Government is going to sleep on it. Elections are too near, Mr Speaker, I think the Government will move rather fast in this as it will be a good vote catching exercise and I think that we need not worry in this instance of the Government forgetting about this. I am sure that the firm statement made by the Minister for Economic Development who in this instance, I don't know why, he has taken it on his shoulders perhaps shows the determination of the Government in this instance to satisfy my Honourable Friend on my left. I do not see why there should be this discrepancy between white collar workers and industrial workers, it is not just justified by any moral judgement. On the financial side I tend to agree with my Honourable Friend there the numbers involved cannot be in my view all that much. In the long run we shall see what the figures are, I don't think the Financial and Development Secretary is very happy about that. Anyway, I think those things are overlooked before an election and therefore the prospects of this difference being wiped out once and for all, I think is very close to being achieved and if this is done I think my Honourable Friend deserves to be congratulated for having been wise enough to have brought it to this House at this time.

MR SPEAKER:

Does any Honourable Member wish to speak on the amendment? Does the Honourable Minister wish to reply?

HON A J CANEPA:

Just to say, Mr Speaker, that I think it is a great pity that some members of this House have to prostitute everything that one tries to do and lower it once again to the level of that marvellous game politics. One can never be straightforward, one can never be honest. In politics, apparently, there are

no honest people, there are only vote catchers. I said between now and the time of the elections because I don't know what is going to happen afterwards and I may not be sitting on the Government side and I didn't want to say afterwards because it would give the Honourable Mover the impression that the matter was not urgent and that time was not involved. So I strike the balance of a reasonable man and of course I end up by being accused of trying to make political capital out of any situation. I think it is a great pity that things should be like that but, apparently, that is what is expected in this marvellous game that we call politics. I am sad that it should be like that but there we are. Why did I bring the amendment and not the Minister for Labour? The Minister of Labour is only responsible for social insurance pensions. The pensions which are paid to Government employees no Minister is directly responsible for them because pensions and conditions of service of the employees of the Government are not a defined domestic matter but obviously somebody on the Government side has to speak.

HON MAJOR R J PELIZA:

Will the Minister give way?

HON A J CANEPA:

I will just a moment. And since I am the Minister who is deemed to be responsible for industrial relations within the Government service having regard for my very lengthy background, the number of years that I was Minister for Labour, Establishment Division and the Industrial Relations Officer consult me, they get political guidance from me on behalf of my colleagues, that is the reason. I give way to the Honourable Member.

HON MAJOR R J PELIZA:

I hope the Minister will forgive me but as usually the Government when it has got a hot potatoe passes it on to the Financial and Development Secretary, I was very surprised that in this instance it was the Minister who took it over.

HON A J CANEPA:

Mr Speaker, I happen to like potatoes and if they are hot all the better. I commend the motion to the House.

Mr Speaker then put the question in the terms of the Hon A J Canepa's amendment which was resolved in the affirmative and the amendment was accordingly passed.

The House recessed at 1.04 pm.

The House resumed at 3.20 pm.

MR SPEAKER:

I will remind the House that we are still on the motion moved by the Honourable Mr Bossano as amended by the Honourable Mr Canepa and those who have not spoken to the main question are free to do so if they so wish.

HON A J HAYNES:

I consider that the amended motion has substantial merit to it and we on this side of the House as has been indicated by our voting so far are in favour of the general principles as advocated by the Honourable Minister for Economic Development and our only concern is in respect of the cost to the public purse as a whole. I have no further reservations and the only point I would like to add is that the matter when considered by Government could perhaps include a wider investigation. I know that for instance, in Singapore the Government there have a very radical policy which may be of interest to Government if they are going to revise and consider pension policy as a whole. In Singapore, Mr Speaker, a portion of pensions payable and for that matter social insurance and a whole part of the wage payable to an employee is removed at source and is earmarked specifically for a Government purpose. In this case it is for housing in Singapore and if Government are going to go into the financial repercussions of a pension after ten years service and one assumes that of course it will be as an expense to Government, they may be able to warrant this offset of funds if in part they can achieve some of that money for a specific purpose like housing which I am sure will be to the common good and therefore a matter to be commended.

MR SPEAKER:

Are there any other contributors?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I don't want to destroy the spirit behind the motion and the spirit that has been built up but I feel I should point out that the exercise is not simply a calculation over a matter of days and the cost looked at in the context of those who are today in the situation where with the reduction of employment new employment opportunities could be created. The effect of

this measure will also have to be examined in the context of its implications for the future as each and every industrial who will be employed by the Government will obviously come under the new scheme and therefore the implications are not simply restricted to those who are over a particular age today but to those who will be entering the service or who are in the service at any level or at any age. The exercise is a bit more complicated and the cost may therefore be rather higher than what might appear. I am just saying this for the record.

MR SPEAKER:

Are there any other contributors?

I will then call on Mr Bossano to reply.

HON J BOSSANO:

I won't say very much, Mr Speaker. I am sure that it is not either as complicated or as costly as appears to be feared on the Government side. I think the situation is that any additional cost can only result in fact in the long term. There may be an additional cost, for example, if it results in a higher number of retirements taking place in a particular financial year, say, in 1984 or 1985 than would otherwise have been the case but I think if it is a question of its long-term implications, I think its long-term implications would only result if one anticipated a high level of retirement with people who had lengths of service between 10 and 20 years because those would be the only people who would be affected and that, quite frankly, is not a common situation in Gibraltar and given the present economic situation and the present repercussions of that economic situation which is clearly resulting in the employment of the Government being considered virtually the only secure employment in Gibraltar, I think it is reasonable to assume that anybody leaving service with less than 20 years is almost certainly either leaving on medical grounds in which case the amendment doesn't change the situation, or leaving for very lucrative and better employment with far better prospects. I think we are talking about a very, very small minority of people being affected in the long term but I accept that in the short term it would lead to a bunching of retirements which is precisely one of the reasons that I advocated for doing it because the leading of a bunching of retirements would also lead to a bunching of vacancies, one cannot have one without the other. I am grateful for the support to the Motion.

Mr Speaker then put the question which was resolved in the affirmative and the Hon J Bossano's motion, as amended, was accordingly passed.

HON A J HAYNES:

Mr Speaker, I beg to move the motion standing in my name which reads as follows: "This House regrets the Government has not taken measures to prevent motor car dealers from using the public highway and parking bays thereof as a storage area for their cars and further considers that Government should provide container and trailer parking areas to decongest our thoroughfares". Mr Speaker, as you will note from the motion, the proposal is in two parts and the two areas which the motion seeks to discuss and debate are (1) the matter relating to car dealers and the second one is to container and trailer parking. I will deal with the first part, Mr Speaker, which is the matter for car dealers, the problem which this House regrets has not been remedied is a general problem, it is related to the large number of cars belonging to various car dealers, perhaps not all car dealers, but certainly the majority of car dealers, which are stored on our highways or on large parking areas such as Alameda Grand Parade. Apart from being stored on our highways, Mr Speaker, the highway is at times also used as a sales room for the exhibition and inspection of second hand cars for sale. The problem, Mr Speaker, comes with the other matter to which motorists are objecting which is a parking problem in Gibraltar. With the severe car parking problem that presently exists in Gibraltar we cannot afford to have a large number of extra vehicles adding to the congestion. It is my submission that public funds are not spent on the maintenance of highways for the benefit of car dealers. This problem therefore is one which needs a remedy. If I can outline a specific aspect of this problem to bring to the attention of the House one example which illustrates the problem very clearly is the case of Marina Court, Mr Speaker. Marina Court is as this House will know, a residential block off Glacis Road. Next door to Marina Court there is a car dealer. Marina Court itself has only six private garages for the residents and the residents in total of Marina Court are about 200 and they own between them about 70 cars and so we are looking for car parking space for 60 odd cars. These residents seek obviously to park their cars in the general vicinity of their residence and the area in Glacis Road outside Marina Court used to provide until about a year ago space for about 30 to 35 cars. There was also, Mr Speaker, and the House will probably take note of it, a very large or wide pavement running along Glacis Road outside the Marina Court and it was this pavement, Mr Speaker, that was overrun by cars, cars being parked all four wheels on the pavement and so much so that they were actually blocking any

pedestrian passage through the pavement. This required, therefore, that anyone walking along the road would have to go onto the road rather than on the pavement. This of course in itself was dangerous and was causing considerable concern and distress among the residents of Marina Court. But, Mr Speaker, the cars that were overrunning the pavement were almost exclusively the cars of the next door car dealer. In 1977 the Marina Court Management Limited, which is the residents association, started lobbying Government or the Establishment to build car bays into this wide pavement. Initially, Mr Speaker, they lobbied the Police. Not that they were put off but they were not helped either and eventually in 1980, three years later, they changed their lobbying pressure from the Police to the Public Works Department. Public Works Department in their usual manner took time to respond and it wasn't until October of last year, nearly three years after they were initially pressed and almost six years after lobbying had first started, that the bays were built. These bays were built into that pavement area and they were completed by about February of this year so there, Mr Speaker, the residents of the Marina Court finally had their parking bays. The result of the parking bays meant that there were now 45 car spaces in all outside the area in Glacis Road. Within days, Mr Speaker, all these spaces were taken by the car dealer next door who now profited from parking bays for his convenience. I ask, Mr Speaker, whether the monies spent by the Public Works Department were designed to benefit an individual enterprise such as the car dealer. The bays subsequent to the work undertaken by the Public Works which I am told were substantial because it involved the re-arranging of culverts and drains and so on, it was an expensive enterprise, Mr Speaker. Those bays seem to have been built for the use of one individual firm. They are used for the storing mostly of second hand cars, they are used as a sales room for these second hand cars, there is a varying number of cars with sales prices on them; I am informed that people have been shown around and allowed to inspect the cars at the parking bays as if this were a salesroom, and they are parked there, Mr Speaker, long term. By long term I mean they do not move every 24 hours, they can be there for two or three months, in fact, they are there normally until such time as they are written off as of no second hand value or they are sold so they hog the car parking spaces. This problem has been going on since 1977. Many of the cars are in pretty poor condition with faulty tyres, no headlights and such like, many of them have no current road licences and a large number were parked across the bay which is on a double yellow line so they were obstructing the highway. It also appears, Mr Speaker, that the Police were not at this stage thorough or constant in their action and it took the incessant badgering of the representatives of the Marina Court management

association to oblige the Police to look into the problem. Eventually the Police took action and as a result of this action a large number of cars were fined for not having current road licences and such like. And if I may give the example that in June of this year 27 in that area alone were summoned for not having a current road licence. The result, Mr Speaker, was that 70 were declared derelict and thrown off the chute. These 70 cars were taking up car parking spaces which is no doubt expensive seeing that the Public Works went into some considerable effort on that and yet it was all for nothing, Mr Speaker. The position now Mr Speaker, is better but it is only better, Mr Speaker, because of the pressure brought to bear on the Police and on the Government and on the authorities by individuals, by the residents of Marina Court. But, of course, action, Mr Speaker, has been taken along those lines along the lines that dilapidated cars are now thrown away with more regularity and these cars are now licensed. But that is all, Mr Speaker, they continue to use up those parking bays. If I may illustrate the position more generally and not just in the area of Marina Court as I find indicated. I am informed that stock taking by car dealers of their second hand cars is a perambulatory exercise, it requires a walk or a drive around town spotting the various cars which are parked in the town area at Line Wall Road, Irish Town, wherever, Mr Speaker, and they have to work out where their stock is. I am also informed that the Alameda Grand Parade and the area opposite Chilton Court is also used as a general parking area for second hand cars. Mr Speaker, I submit that that is not a fair state of affairs, it is not the proper use of public funds in the sense that the money which is spent on a highway are not to be used for individual enterprises or companies and the problem has been ignored for some substantial time. It is for that reason that I think it is proper to bring the matter to the attention of the House for action to be taken now. I am informed that in the past excuses or the reasons given for non-action to the Marina Court management have been varied. From the Police they have heard things like that their hands are tied by Government, that Marina Court should wait for the parking bays but of course when they waited for the parking bays they were taken over as well and that they should wait for the MOT testing centre. Government have told me that they are powerless because the law is not in their forum, and the dealers of course have said: "Where can we park?" There is no ready solution at hand offered by any of the parties involved. The position today, Mr Speaker, as regards the specific instance of Marina Court is that 24 cars are occupying the new bays and six are straddled across the bays in an improper manner. Of these only one car at the moment has a price tag and two of the cars have the DLR plates which indicate that in fact they are new cars so it is not just second hand cars that are there. But was the position, Mr Speaker, as hopeless as the Marina Court

management were led to believe? Was it in fact correct to say that Government were powerless to do anything to help them or the residents generally in Gibraltar from ridding the highway of second hand cars for storage. And to find out, Mr Speaker, just how Government stood on this, other than as regards their own pressure, one of the residents of the Marina Court Management Limited entered a test application for a trade licence. He applied in March of this year and he applied under the name of Kar Sales, Kar Sales was spelt with a K, and he indicated that the purpose of his licence was to trade in second hand cars. And furthermore the licence stated that the place from which the business was to be conducted was the public parking bays in Glacis Road. More or less, Mr Speaker, he redefined the position as was encountered by the Marina Bay residents. And what was the result, Mr Speaker? There were two objectors immediately. One of the objections came from the Police and the other one came from the Surveyor and Planning Secretary, and so Kar Sales Limited were not given a licence to trade in second hand cars in the parking bays at Glacis Road. So, Mr Speaker, the Marina Court Management were left rather confused. On the one hand Government could do nothing and on the other hand Government would immediately stop them and object strenuously to their using the highway for the sale of cars etc etc and another reason given was that the highway was already congested. It was at this stage, Mr Speaker, that I was asked to intervene. The Marina Court Management were struggling on their own for six years, they got nowhere and just when they thought they had succeeded by having the bays built the problem was exacerbated. I wrote to the Minister who was then in charge of traffic, the Honourable Mr Zammit, and two weeks later I got a reply saying he was no longer dealing with the matter and that the matter had gone on to the Minister of Public Works who had taken over. I have had some correspondence with that Minister who has expressed his sympathy but hasn't produced results. He has also written to the Commissioner of Police and has passed on to me the communications from that source and it appears that the possibility that there is a 24-hour parking limitation on cars does not apply unless, Mr Speaker, we are talking about scheduled non-parking car parks. I am sure that this is not one in Glacis Road. I am not sure what a scheduled non-parking car park is but all those in Gibraltar who are motorists should be glad to know that you can only park for 24 hours in one of those places. Mr Speaker, what needs to be done? I think what needs to be done immediately is to take away the second hand cars from those parts of the highway which are in constant use by motorists. Where they should go is a matter in which I can make suggestions and these are obviously based on my own appreciation of which land is available in Gibraltar but of course my own information on this subject could never be as

accurate or as well based as that available to Government Ministers. But nevertheless so that the Government shouldn't continue to say that we just criticise without constructive criticism perhaps I could suggest areas or the type of areas that we are looking for. In Gibraltar development has almost come to a standstill, Mr Speaker, this means that large tracts of land are presently without any activity. Engineer House, for instance, Mr Speaker, is an enormous tract of land in the town area which is presently empty. Perhaps the Government should approach the Gibraltar car dealers and indicate to them that if they were to pay for the levelling of that land then it would be theirs for as long as the place was not developed and that may be a solution, there may be other areas, but Government needs to do something about it rather than hide its head in the sand as always. This brings me, Mr Speaker, on to the second part of the motion which deals with containers and trailers. In this respect, Mr Speaker, the motion is worded differently. In the first part of the motion we state that 'we regret that Government has not taken measures to prevent motor car dealers from using the public highway'. In the second part of the motion we say that 'we consider that Government should provide container and trailer parking areas to decongest our thoroughfares'. Mr Speaker, I have had occasion to discuss this matter with the relevant authority who are the Gibraltar Transport Contractors Association. They, Mr Speaker, appreciate and accept that the containers and trailers parked on our thoroughfares (1) add to the congestion of the highway, and (2) are an eyesore and are not consistent with Gibraltar's attempted tourist image. But, Mr Speaker, where should they go? We urgently require, Mr Speaker, that they be allocated a site for these vehicles and in this respect I think it is to the credit of the Gibraltar Transport Contractors Association that they have been constantly asking and pressing Government to allocate them a site in order that they can take away from the roads these offending vehicles and as recently as March of this year they asked again for land to be allocated to them and in this case the Development and Planning Commission rejected the possibility of the aerial farm complex at Devil's Tower Road being allocated to the Transport Association. The reason on this occasion, Mr Speaker, was that the MOD refused to release it. Well, Mr Speaker, the Development and Planning Commission then said: "If you, the Association, can think of anywhere else where we can put your containers we will think about it", Government passed the buck. Surely if Government accepts that there is an urgent need it is not fair to say: "Well, go off and find a place and then we will tell you whether you can have it or you cannot", it is for Government to try and find a place and I would like to know just how strong the defence requirements or security requirements of this particular area are. If they are extremely sensitive then the

matter must be allowed to rest but if it is just, as I understand is often the case, the MOD never like giving anything away at all but you can tell, I suppose, from negotiating whether they are feeling particularly strong on this issue or not, then is it possible to make them change their minds or to make them release a certain part of this land? Certainly, in any event, Mr Speaker, the Transport Association were not put off by this suggestion that they should go and find a place themselves and then bring it to Government to have it shot down, they have suggested to me certain sites which could be made available and I will come to that towards the end. I would like to state, Mr Speaker, that the Gibraltar Transport Contractors Association have noted a substantial deterioration in their business. They are hard pressed on a financial level, they are about 40% down, I understand, on their business, they are a hard pressed part of our business. They need help and if Government has as is so often stated by the Minister for Economic Development, an interest in enhancing and improving our image as a container port or generally to improve our facilities as a port outside Gibraltar, then surely the Government should undertake to ensure that the back-up facilities which go with the port are there and one of the back-up facilities, Mr Speaker, requires a tract of land to be made available for the parking of containers and trailers, for the organisation of the haulage side of the port business. It cannot be a good way to run a business when you have your large vehicles dotted about on different parts of the highway. How can you run a business properly? How can you defend your vehicles from vandalism? If, as I say, Government wish to give some impetus to the port then let them be seen to do something for the facilities and the back-up required. But Government should also take note that in future, if the recession has an upward swing or we hit the bottom or whatever and we start generating more business and this generated business requires more vehicles, Government should ensure that for the proper organisation of our port and of our facilities that perhaps no container or trailer should be allowed into Gibraltar unless the Government is satisfied that there is a place to keep it. In the event that the entire business should expand that means that more land will be required. In the event that either no land is available or the business is not expanding but is just building up strongly then perhaps it should be on a quid pro quo, you can only enter a container if you throw one away or if you export it away from Gibraltar. There should be some sort of control some sort of interest by Government over that very valuable commodity which is land and the proper administration of our land requires foresight and planning. There should also be, Mr Speaker, a proper interest and control over the development of the port and that requires the Government assistance to the back-up facilities. There should also be, Mr Speaker, a general interest and concern

over the money spent and handed over to Government by motorists in Gibraltar who I think should be entitled to uncongested thoroughfares and to properly maintained thoroughfares and these are responsibilities where Government has not shown itself or not accredited itself in a proper manner. This brings me lastly, Mr Speaker, to the spaces which may or may not be available. There is of course, as I have said, the matter of the aerial farm. Well, I don't know, Mr Speaker, from this letter nor does anybody else just how strong the argument of defence is in this area but Government perhaps should be able to tell us. I am also informed that there is a large area which may be suitable for part of the container and trailer vehicles behind the NAAFI building in Queensway. Perhaps also, Mr Speaker, the car park opposite the Camber which I notice is not a very popular one because it is not particularly near the town, could in part be assigned to containers and trailers. Perhaps Government has got very, very good reasons why they should not but that is an area which I note is not ever completely full and therefore perhaps part of that area should be allocated to containers and trailers. I am also told that perhaps near the new Marina there is an area behind the Bayside area there where there might be a space. I don't know that particular area and I was told about it without being able to pinpoint it in my own mind, I am not sure about that particular one. I am also told that the Gibraltar Transport and Contractors Association would accept that, say, a small area was made available to them at a convenient place like anywhere along Queensway or Devil's Tower Road for, say, a percentage of their vehicles whereas the rest which are not in constant use, which are perhaps waiting for an upsurge in business, could be stored somewhere further out of the way, more remote, perhaps inside the Rock. There are more miles of road inside the Rock than outside the Rock. There are endless chambers and all sorts of spaces there where perhaps containers and trailers could be stored satisfactorily. As regards car dealers, Mr Speaker, the spaces which I have in mind are places like Engineer Road. They can be actually inside the town area because cars of course can travel through the town. We are talking about putting them all in one area which again would add to the organisational facilities, it would decongest our thoroughfares and show positive Government. I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the Hon A J Haynes' motion.

HON M K FEATHERSTONE:

Sir, Government will have to reject this motion on the grounds that it is discriminatory, divisive and completely deficient in

any real knowledge of the facts that appertain in Gibraltar. To talk, as the Hon Member did a little while ago, that one should not put a boot on a car for parking in an area where it should not park until more car parks were provided and to get the answer that a car park has been provided in Queensway at the Romney Hut area and then to suggest that it should be used instead for trailers seems to me to be a complete absence of knowledge of the facts whatsoever. The position with car dealers, Sir, is that they must be dealt with on the same basis, vis-a-vis their car, as any other person in the community. They pay a licence so they are entitled to park their car on the public highway just as much as any other person in the community. Perhaps they leave it for long periods at any one point. This may not be desirable but unless one is going to enforce the same on the general public and as I said I think yesterday some members of the general public do leave their cars for considerable periods of time, it would be invidious to say to the car dealer: "You may not do it but Mr X may do so". The complaint that car dealers have their cars there with faulty tyres, no headlamps, without current road licences, that of course is to be deprecated and those are offences and if this is true in fact then I suggest that the Hon Member shows these cars to the Police and get the Police to take action but I am assured by the car dealers that their licences are current, that the cars are in good condition because they are not going to have a second hand car which they are hoping to sell to somebody if it is deficient in headlights, deficient in tyres and what have you. Of course, if you go to a second hand dealer and he takes you along the road and says: "This is my car for sale", that is of course to be completely forbidden according to the Hon Mr Haynes. Yet we commonly see cars owned by the general public with a little notice - For sale, apply telephone number so and so - and if you apply to number so and so he will take you down the road and say: "Here is my car, it is sitting in the road, it is for sale". If the ordinary person can offer his car for sale in the public road why cannot the car dealer do the same thing if he is adhering to the same basic principles as the general public. He is paying his licence, he is leaving the car perhaps longer than 24 hours but, as I said, the general public do the same. The question of Marina Court. It was a very great pity when Marina Court was built that there wasn't a Development and Planning Commission in operation at the time because I can assure you that 200 residents would not have had flats built for them with only six car spaces available. Today, I think, the situation is that for every three flats you build you have to provide two car spaces but it seems that when they built Marina Court somebody got away with a very easy situation vis-a-vis the possible car parking under which he provided very little space and threw the rest of the onus, as often happens in Gibraltar, on to Government to resolve.

HON A J HAYNES:

If the Hon Member will give way.

HON M K FEATHERSTONE:

I am not giving way. I listened to you very quietly, I never interrupted you once, now I am going to speak as much as I wish and I am not going to stand for any interruptions. We all saw the notice from I think it was a Mr Robinson in Marina Court and everybody saw through it, it didn't take the Government in for one minute. But when the car spaces in Glacis Road were made by Public Works they were not done at the instigation of the Marina Court residents nor were they intended to be car parking spaces for the residents of Marina Court. They can park there as much as any other member of the public, whether that other member of the public be John Smith, Peter Brown or Mr X the car dealer. There is, of course, a possibility in the future and Government has had it under consideration for considerable time, that many of these parking areas should become metered zones where you have to pay and then perhaps the tenants of Marina Court will be happy to pay for their car parking space and the car dealers who put their cars there will also have to pay. This might be a good thing for the Government coffers and it is something we are investigating. But basically, Sir, I cannot see that we can discriminate between a car number XXXXX owned by a car dealer fully licenced, in decent nick being parked on the road and next door to it a car number YYYYY owned by a private citizen also in good nick, also licenced, I don't think we can say to one of them: "You may be here and you may not". The question of containers and trailers. This, I agree, is a nuisance, one does not like to see trailers all over town. It is general policy of Government that containers should not come into town, in fact, I think the legislation is such that containers may only go on specialised roads and it is the aim of Government that containers should remain in the port area and that is the whole idea of the unstuffing shed under which the containers will be unstuffed in the port and the goods come into town on lorry. I understand, as the Hon Mr Haynes has said, that the transport contractors are going through a rough time but perhaps the fault for this is to some extent on their own heads, they expanded to too great an extent. There are, in my opinion, far too many lorries for the amount of goods that have to be brought into town. Everybody that could at the time was jumping on the bandwagon buying lorries and becoming a transport contractor but it is hardly fair when you find difficulties in where to park your lorry and what to do with it, to throw the onus on to Government and say "You must find me and give me a peice of area". Perhaps if the transport contractors came and said

"We would like to tender for a large piece of land where we could make a lorry park", this would be more worthy of consideration. There are also, of course, instances in which certain gentlemen who have run transport contracting firms, have tendered and been successful in obtaining a piece of land apparently to keep their transport fleet in good condition by building a garage etc, and the next thing you know it is not a garage at all, it is a small light industry doing something completely different, something which was never envisaged when the piece of land was actually handed over and possibly against the original intentions that that land should be handed over which was to solve the transport problem. The question of the aerial farm is something which has exercised the minds of Government for a very long time and MOD has been more than insistent not only on the actual piece of land right under the farm but in the areas around you have not been able to build buildings over a certain height, the Ice Box, the Vehicle testing shed both fell into these categories in which the height of the buildings had to be restricted because of MOD requirements. But the Honourable Mr Haynes may not know that if you were to use the area underneath the aerial farm and leave a car there as he is suggesting, or a trailer for a period of 72 or 96 hours or so, when you went to that trailer and intended to get into it you might get a pretty healthy shock because there is a lot of static electricity in that area and that is the reason why the MOD do not allow long term parking in the area. They are willing to permit as they do in the summer, short term parking where the static electricity does not build up to any extent but they assure me that if you leave a car there for considerable periods of time the static electricity can build up to an extent as to be dangerous and that is the main reason why they are not willing to give up that piece of land not out of spite or out of cussedness but out of sheer scientific danger. As I said, knowledge of the facts seems to elude the Honourable Mr Haynes when he talks about using the area behind the NAAFI in Queensway as a trailer park. I thought we heard it from the Honourable the Chief Minister and also from my colleague the Minister for Economic Development that the whole of the area from the Gibraltar Technical College south, was going to be a development area. I am sure that it is going to be a very interesting thing to any potential developer to find that there is a prime area just behind the NAAFI as a trailer park. I am sure he is going to be very keen on putting a very big tourist development and have containers and trailers milling around in the prime site that that one is. This is why I say the Honourable Mr Haynes is out of touch with the facts as he is out of touch with the facts when he talks about the area behind Bayside. If he happens to go to that area he will find there are already 5 or 6 trailers parked in that area and it cannot take any more, it is a very limited area and there are already trailers there. He talks about Engineer House, I don't know

whether he listens to what we say in these debates but we have said more than once in this House that the plans that the Government has for Engineer House is to demolish the present model house that is there, that we hope to get the money for this in the new loan that is coming through very shortly, that the tenders will be going out or will be accepted very shortly, that the area will be demolished and will be made into a temporary car park, a car park for the general public, which is something which we were accused in not providing. Here we have plans for a carpark, he wants to take it over either to put his trailers or containers there, I don't know how they are going to get through Engineer Lane, or to give it to the car dealers. And the other point is that had it been given to the car dealers, you cannot do this on a temporary basis and say "Ah, you may have it until such time that we intend to develop the area", because then you give them acquired rights. The first thing that they will say is: "Fair enough, you want to develop the area by putting up a building, now give us somewhere else to go and you will find yourself 2, 3, 5 years arguing where to put them and stifling your development while you try to sort it out. This is once again a position where he is completely out of touch with the facts. The situation, therefore Sir, is that the car dealers must be given equal facilities as any other member of the public unless we are going to be absolutely draconian and enforce the 24-hour parking law completely, then we are going to have to have need of car dealers parking in these areas. Perhaps somebody, so far the Honourable Mr Haynes didn't say, he missed it, might bring up the fact that a large number of I think they were small commercial vehicles were parked the other day on the USOC Tennis Courts, belonging to a car dealer. This was actually done with agreement with the police and the situation was that all these vehicles came in off one ship, they were parked I think for something like 72 hours on the car park at the USOC Tennis Courts, they all paid a 2% duty on being re-exported and they all paid one full year's road tax licence. The Government of Gibraltar got something like £4,000 out of that deal simply for allowing this car dealer to put his vehicles for slightly more than 24 hours on the USOC car park site, improved the export business of Gibraltar, gave a good name to Gibraltar for future business and brought a considerable amount of money into Government coffers and I think that at times like these these are good things. If we are going to be draconian and put into effect the rules of the Honourable Mr Haynes would like, we would say to car dealers: "Very sorry, you cannot be more than 24 hours, you jolly well have got to get on with it and will not be allowed to park your cars at all". The position therefore, Sir, is that we cannot, as I say, accept this motion, it is discriminatory, it is divisive and also it does not follow in with the facts as they are.

HON A T LOPDO:

Mr Speaker, I would like to start by asking the Minister for Public Works a question. He needn't answer it now, one of his colleagues can do it for him. What would Government say if, for example, butchers in Gibraltar were to receive their merchandise in a refrigerated container which they would park outside their shop and take a mains lead from the shop to the container and store their meat in this refrigerated container on their doorstep? What would the Government say if a dry goods dealer were to do the same with containers, or even with lorries? I know of one shop owner who for months had an old lorry full of goods locked and parked outside his shop. I am sure the Government would say that if a butcher wants a fridge he should jolly well go and build one, and if the dry goods dealer wants a store he should jolly well go out and find one but that he should not make use of the public highway for his own business. Mr Speaker, anyone wishing to set up in business must abide by certain rules and laws, depending on his business. If you want to set up a bakery or a butcher shop or a delicatessen, you are required to meet certain conditions. The shop must be tiled, there must be running hot and cold water and a number of other conditions. Therefore, Mr Speaker, a car dealer who wants to set himself up in business as a car dealer or wants to be the agent for a certain make of car, should be told or should be asked: "Where exactly do you intend to set up your business?" And if he turns round and says "From 32 Marina Court", the answer is of course "I am sorry, you cannot run a car dealer business from 32 Marina Court, you need showrooms, you need a workshop, you must have the premises suitable for the business you intend to set up". Mr Speaker, if you let people do what they want they will do precisely that, they will do what they want, and as long as they get away with it, it does not matter in what, they will. Mr Speaker, Government can do one of two things. It can either take measures to prevent the abuse or if it is not prepared to take measures to prevent this abuse Government then should provide the solution, should provide the site for dealers, containers or trailers. What Government cannot do is sit back and allow the situation to become chaotic. Traffic is already chaotic by the Minister's own admission, and it did not happen overnight, Mr Speaker, it has taken years. The situation has been deteriorating progressively and with the containers car dealers and trailers it is the same. I have in this House on more than one occasion asked questions on containers and trailers and I have asked for some areas to be made available. I remember once I got a nebulous answer like; "this some other place or this some other area", I never found out where it was but I had to make my question on that nebulous answer. Mr Speaker, I have seen trailers loaded with building material at Rosia Parade just

after the area had been macadamised. I have seen trailers loaded with containers there, digging deep into the surfacing which had just been completed at great expenses, I am sure, by the Public Works Department. But it does not seem to bother anyone. Mr Speaker, trailers do not even pay road licence. You pay for the lorry but as far as I am aware you do not pay for the trailer. And one lorry, Mr Speaker, can service any number of trailers, you can have 7 or 8, load one, take it, deliver it, come back, load another one, take it, deliver it. You are not limited as to how many trailers one lorry can take.

HON H J ZAMMITT:

On that one he is most certainly wrong. Every articulated vehicle is licenced to pull around two trailers, no more. The licence for an articulated vehicle covers two towing trailers.

HON A T LOBDO:

Mr Speaker, I am glad to hear that and no doubt the police is on top of all this checking every time. They keep a tight check on that. Mr Speaker, these trailers, I have seen them parked across a parking rank taking 5 parking bays. Again, apparently it does not seem to bother anybody. Of course if they were to park them into the bay it would go right across the road and onto the other side so I suppose we should be grateful that they do not do that. Mr Speaker, back on to these car dealers. You get a number of car dealers taking old crows which they know they will either have to sell for spares or maybe some Moroccan will come along and try to get the thing to go. Eventually in sheer desperation he will dismantle the car, put all the bits inside and wait until he can sell them off so that they can go over to Morocco. But, Mr Speaker, the problem is that because these cars are parked, and let us assume for a moment that they have got their licence and that they are insured, although they are immobilised you cannot park behind that car even if there is nowhere else for you to park. I have seen this happen outside the market place. I have seen a person park his car behind an old crow without wheels which cannot possibly move and the policeman has come and booked him for improper parking or being double parked. I have seen it happen, and the person concerned has complained to me. And that, Mr Speaker, is assuming that that car has paid its licence and is insured. I believe that it was in July of this year, after a meeting of the House I invited the Attorney-General to come down with me and we had a walk round the garage outside Waterport, the one my Honourable Friend Mr Haynes is referring to, and we had a walk round the garage in Corral Road and I was able to

show the Attorney-General a number of cars which ^{if} they had licences or not were not certainly not displaying them and that is an offence in itself. I am sure that if they did not have a displayed licence they could not possibly have been insured either. As a result of that visit, I noticed within 2 or 3 weeks that a number of these cars disappeared, I have now found out what happened to them, they were thrown over the edge. But, Mr Speaker, can we accept that a car dealer who has the facility for his business can sublet his business to somebody else as a supermarket or as anything else and make use of the public highway to make money. I cannot accept that, Mr Speaker. And the comparison which the Honourable Mr Featherstone drew with an individual who slapped the ticket "For sale-£500, ring telephone number such and such", with the car dealer it is ridiculous. You don't expect the ordinary individual to go and hire a show-room to sell his car. But the other, Mr Speaker, the car dealer is a business, it is his business, he is in the business of selling and buying cars, he should have the premises, and if he has them he should be made to use them for the reasons he was originally given the premises. At Line Wall Road we get that as well. Practically in the heart of the city you go and try and find a parking place and you will find a lot of them taken up by the car dealers. Mr Speaker, as I said Government can do one of two things. Either it takes measures to prevent abuse or if it is not prepared to take measures to prevent abuse, it has got to provide the alternative parking, the alternative areas for trailers, containers and car dealers. I have said it before and I will say it again and I will continue to say it. The Government as far as parking and traffic is concerned is merely pecking at the problem. They need to take action on a number of fronts and one of them, and this is the one that I keep harping on, is time limits for parking. If we used to have time limits for parking when Gibraltar boasted 1000 cars, I fail to understand why nowadays when traffic is as heavy as it is, Government refuses to introduce time limits for parking. I am sure the Minister for Public Works will find fault with it but the beauty of time limits for parkings is (1) that it will stop the abuse; (2) it will ensure that the cars that are on the road can circulate and do so and, Mr Speaker, if the police is too overworked, I will again suggest the introduction of traffic wardens who would look after these parking areas and would ensure that those cars are moved. Mr Speaker, I am not going to offer the Government suggestions as to the sites that they can use.

MR SPEAKER:

I have been very liberal but we are not talking about the parking problem in Gibraltar. I am saying this now after I have given a tremendous amount of latitude. We are talking

about the question of car dealers using the parking areas and we are talking about trailers being parked indiscriminately. I think you have been going into the whole question of the parking problem and it is time. I sounded a warning.

HON A T LODDO:

I am not going to propose to the Government where they can make these parking areas available for containers and trailers because I am sure that no matter where I suggest, the Minister will shoot it down in flames. But I will certainly ask Government once more to consider the introduction of the time limit parking which will help to get rid of a lot of old crocs and will ensure that the cars which are on the roads in Gibraltar are cars that can actually move under their own steam and not have to be dragged, towed or booted. Thank you, Mr Speaker.

HON M K FEATHERSTONE:

I am sure any car dealer who hopes to sell his car is going to have it in such a state that it is not only licenced but it is able to move because when he gets a customer the customer will probably say, "Well, let us try it and let us see what it is like". So he would be a very poor dealer if he didn't keep his cars in a reasonable condition.

HON A T LODDO:

Mr Speaker, I will assure the Honourable Minister that that is not the case always and if the Honourable Minister is free any evening we can take a nice long walk and I will show him a number of cars that have been parked for months in the same spot and I am sure they haven't even got a battery under their bonnet.

MR SPEAKER:

Are there any other contributors?

HON MAJOR R J PELIZA:

I would like to support the mover of the motion. I feel that he has to be congratulated for coming to this House thoroughly prepared to put what I think is a sensible case in the hope of urging the Government to do something about problems created by the difficulties, and one has to accept this, the difficulties that car dealers find in Gibraltar in storing their cars, new

and second hand, one has to accept that. He went, perhaps, a bit too far in trying to be kind and trying to be constructive and because he was trying to be constructive, immediately the Minister tried to say that he was ignorant of everything he was saying. The role of the Opposition is not to be constructive, I think the role of the Opposition is to criticise and if we are constructive it is, in fact, because we go out of our way to try and be cooperative. This is why we are constructive. But there is no reason whatsoever why the Opposition should be constructive since it is the Government which has to get things done and we have every right to criticise the Government any time of the day and any time we come to this House. But my Friend saw it the other way. He tried his best to see if he could find solutions to problems which the Minister who has been there now for some years occupying the same post does not seem to be able to find. Perhaps he is too tired of his job and perhaps it is time and he handed over to somebody else who would see the problem in a more positive manner. All we have from the Minister on this particular problem is no, no, nothing can be done and all he brings out every time that the matter is raised are all the difficulties that cannot be overcome. If this cannot be overcome, then they should say so and then allow somebody else who believes that they can be overcome. My Friend, with the knowledge that he has just from outside, he has no inside knowledge of the Government, has tried to make suggestions. Those suggestions have been ridiculed. But what is strange, however, Mr Speaker, is that the question of parking which inevitably is linked up with the question of parking of car dealers' cars, we can't dissociate one from the other, suddenly when the frontier was going to open so many more car parks were produced. Who gave the instructions to do that to the Minister? The impossible was done almost immediately. Was it the FCO who gave the instructions, was it the Governor who gave the instruction? Why was it done so quickly? Then, suddenly, after that had happened, everything again has come to a standstill and the question of traffic seems to have been forgotten all over again. The car dealers I think should be persuaded because it should be in their interest to work hand in glove with the Government because I am sure the Government will try and help and it should try and help any business in Gibraltar, and I am glad to see that in the instance of those cars that came in transit every possible assistance was given. We would have certainly criticised the Government if they hadn't done so. We are not criticising the Government for that at all, we are pleased that they have done it and we hope that every assistance will be given to car dealers to do business, of course we do. But what we can't understand is why something is not done to enable those businesses to operate efficiently without creating eyesores in town and interfering with traffic. And now, of course, everybody, even the Chief Minister now, has taken these matters very seriously.

He has given instructions to the Administrative Secretary to liaise on tourism. Poor fellow, I just do not know how he is going to this, he has got enough on his plate but why should that happen and why should the Minister who is responsible for parking not take that into account and realise that that is one of the eyesores in Gibraltar, to see all the derelict cars, some of them belonging to dealers, parked in all sorts of places and over and above that, those trailers. They say that it is two trailers to one lorry. Perhaps we should carry out a check and find out how many there are. I wouldn't be surprised if they have not given birth to a few more whilst they were here. But, anyway, the fact is that they are lying around in all sorts of places and I would rather see them hidden away in some corner, even if it is only temporary, until the place is developed, I hope it is developed very quickly, but I am not so optimistic as the Minister is that this is going to happen overnight, and during that time, at least, they could be put there and that will give the Minister ample time to find another place which could be made available on a more permanent basis. I don't know what happened to this site which was reclaimed and cost something like £1m where all the containers were going to be kept. Is it that it is full now? Have we got so much business coming through to Gibraltar that the containers cannot be parked there.

MR SPEAKER:

Order, we are talking about trailers and not containers.

HON MAJOR R J PELIZA:

The Honourable Member didn't mention the containers but you see the trailers with containers, some of them very rusty containers on top which even makes it worse, Mr Speaker. A greater eyesore. Surely, the trailers could go to that place and they could have a couple of containers on it if necessary. But what I cannot understand is that having spent so much money for containers which are used by trailers they have not made provision for the trailers themselves. I think that was an oversight on the part of whoever was doing the planning. I am sure that there is still time, I would have thought, to see if something like that could be done to get them out of the way and put them all in one place. Equally, I suggest that the number of trailers and lorries in Gibraltar should be restricted, taxis are restricted, I can't see why other things like that which literally there is no room for them on the Rock at the moment should not equally be restricted. This, again, I should not be saying because it is not for me to be constructive Mr Speaker. All I can say is that it is the Government's duty to see that there is proper

parking in Gibraltar and that this parking is not abused. I think the Minister agrees that it is being abused but he is incapable of finding a solution, of overcoming that abuse, of stopping that abuse because, surely, most of the parking here was not intended for dealers to park there. So much so that these individuals who asked for a licence immediately were told. "No, you cannot have it if you are going to park in the street". As the law stands today it is perhaps impossible to prevent them from doing so, that may be the case, but if that is so then I suggest that the law should be changed and ways should be found of preventing that. The normal parking in Gibraltar is for individual owners using either for shopping or for domestic purposes of one kind or another that is the reason why we have parking here, not to provide a car dealer with a site for them to do business from. I think my Honourable Friend Tony Loddo gave very good examples how that abuse could be extended to other business activities which of course would not be tolerated by any means. Pity, Mr Speaker, that the Minister sometimes goes from the sublime to the ridiculous. Most of the time, I think, he circles around the ridiculous and it is a great pity because I think he is an extremely capable man and if only he had the time or perhaps a recreative period for a little while away from that ministry to be able to come back with new energy, new imagination, new thoughts, perhaps he would not be so negative as he has been today. It looks to me as if there is little hope of any change unless perhaps we get other movement from the frontier again, some directive from someone from outside the Government who has that influence, that tremendous influence that immediately gets the Government active. I don't know where that source comes from but it would be good if they could tap it again.

MR SPEAKER:

Are there any other contributors?

HON P J ISOLA:

Mr Speaker, I didn't want to intervene in this debate because I know the matter is in the hands of my very capable colleague but I have been amazed by the reaction of the Minister. The thrust of the motion was that "the House regrets that measures have not been taken to prevent motor car dealers from using the public highway as storage space", I am amazed by the answer of the Minister that all cars on the highway must be treated the same provided they pay their licence and so forth. In other words the Minister accepts, apparently, as a matter of principle, that the public highway can be used as storage for car dealers. Mr Speaker, if that is the case and that has always been the

intention and the position of the Government, then rather more serious questions have to be answered because the particular parking bays to which my Honourable and Learned Friend Mr Haynes referred to in his opening, that are outside Marina Court, those parking spaces that have been built, I don't know how many there are, forty-two, must have cost a considerable amount of money in work, labour, materials and, of course, overtime. And if when they were built the Government knew, because they accepted the principle that a car dealer can use a public highway as storage space, then the Government was actually building these parking bays for the motor car dealer in question. What would be the position of Government if another motor car dealer came along and said, "Look, can you let me have £50,000 where I can build car spaces outside my place". I am appalled by this piece of news, Mr Speaker, because that must have been what has happened because I always take my walks and of course I used to remember the pavement, a rather large wide pavement outside Marina Court in which all the cars used to take the opportunity to get on that pavement. At that point of time, I hope the Minister will agree with me, the law was being contravened. You cannot park cars on a pavement because then you are causing obstruction. If the Government has accepted the principle that car dealers can use the outside of their premises for storage purposes, then what has happened is that the Government seeing that these cars were parked on the pavement, and there have been lots of questions in the House about this mainly from my Honourable Friend Mr Loddo, in order to solve the problem decided to spend public funds in providing parking bays for a motor car dealer. I never expected, Mr Speaker, the Minister to reply in the way he did. I expected him to say "Well, look here, it is very difficult to control, how do you know whether it is a car dealer's car or anything else". But to come out quite brashly and say that motor car dealers should be allowed to use whole stretches of the highway for the purposes of their business and then having said that, get the Surveyor and Planning Secretary and the Commissioner of Police to object when somebody applies for a licence to run it from the public highway, to me it is most extraordinary, Mr Speaker, I just can't understand the way the Government has operated in this particular instance. I think, having regard to what has been said in this House today, that the least the Government can do is to put time limits on how long you can park in particular parts of the public highway if they think that as a matter of policy spaces on the highway should be used for the benefit of the community as a whole and not for the benefit of individuals, I have nothing against car dealers, Mr Speaker, I know they are having very hard times at the moment, they are not selling their cars so much, people are now buying them in Spain, importing them from Belgium because of course, the import duty is so much lower than the harsh duty that the Financial and Development Secretary insists in

maintaining in Gibraltar. I know they have to be helped and I am glad they helped the particular car dealer whoever it was that brought cars and re-exported and paid 2% and paid the Government £4,000. At least it is something towards the cost of the Chairman of the Steering Committee of £100,000. I am glad they have done that but for the Government to say publicly. "We consider that car dealers should have the right to park all their cars, all their second-hand cars in the highway, Mr Speaker, is a licence for, for example, one particular car dealer who owns a property next to the Regal Cinema should put all his cars out along Queensway and let out that area like the car dealer my Friend the Honourable Mr Loddo mentioned who has let it out as a supermarket, his underground garage space and now puts his cars out in the highway. What are people paying their licences for? What is the purpose of the highway, to be used as car parks or for temporary car parking and for people to go to and from. Mr Speaker, response of the Minister has certainly confirmed to me that this motion should have the support of the House.

MR SPEAKER:

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

HON A J HAYNES:

Mr Speaker, I have no doubt that if I transgress the rules of this House you will call me to order but I would like to state that Government does not care. Their vanity, Mr Speaker, is such that rather than admit that there is a problem for which they may in part be responsible, they will say there is no problem. Perhaps that is why, Mr Speaker, Gibraltar has no problems, everything is alright because the Government refuse to take any responsibility over any issue. Mr Speaker, I came to this House with a serious motion, I brought to the attention of the House a genuine problem not on impulse, Mr Speaker, but after correspondence, after questions had been asked, after consulting all the various people and I am rebuffed, Mr Speaker, I am accused of lack of knowledge and divisiveness and anything else that the Minister can think of. Their usual invective does not affect me, Mr Speaker. I am indifferent to it. I take the insult, Mr Speaker, because it is a rebuff against those who came to me to ask for my help. The Minister's invective is an insult to those on whose behalf I came to this House for the assistance of the Government. I am told, Mr Speaker, as an instance of my lack of information or ignorance on this matter, I am cited an example where a dealer brought cars for 72 hours after negotiating with the police and it made £4,000. What has

that got to do with the price of fish, Mr Speaker? I knew that had happened. I think it is an example of organisation. I did not cite it because it is not relevant. I might have criticised it if I didn't agree with it, I would have brought it to the attention of the Minister. It is not the issue at stake. It has nothing to do with anything that we have discussed in this House, Mr Speaker. The Leader of the Opposition, my Honourable Colleague, has noted the Government's approach to the matter what he is really saying is the point that I made in general terms. He is stating, or he is making the observation that Government will cling on to any premise, however absurd, in order to defend and justify their actions. Now they are justifying that dealers can have the highway for storage. I should also remind the House, Mr Speaker, that the Minister then went on to say that as regards their treating it as a salesroom, he did not criticise it, he went on to say what about the individuals who put "For sale" signs on their cars?" Does that mean, Mr Speaker, that the highway can be used as a sales room? Is that the logical conclusion to be drawn? Because the Minister didn't then go on to say that he deplored it in all cases, he just left it at that. And then we are told, Mr Speaker, that the Marina Court would never have been built with the planning controls that there are now. I accept that but is the Minister's answer then that we should bring down Marina Court? And then, Mr Speaker, the kind of reply I get on the Gibraltar Transport Association. We are told that if they thought about spending money then there may be a site. Well, that may be a justifiable argument but it is not, Mr Speaker, the information contained in the letter I have from the Development and Planning Commission. I referred to it and I shall now quote the relevant paragraph - "The Commission has looked at the problem in depth and while it favours on planning ground the allocation of an area of land for this purpose, it has regrettably reached the conclusion that a solution cannot be found for lack of a suitable site". Why didn't they tell the Transport Commission Association that they wanted money? They have said that they agree but they haven't got a site. And then, Mr Speaker, we are told that the aerial farm was out because of static electricity. Well, that is not what they said in the letter either. They said "As regards the Aerial Farm complex, unfortunately owing to defence and other security reasons it has not been possible for them to assist the Gibraltar Government in the matter". There is no question of static electricity.

HON M K FEATHERSTONE:

I can get the question of static electricity in writing for you and I think my Honourable Colleague here will vouch that that is so because we have been told that in DPC on many occasions.

HON A J HAYNES:

I am glad to hear that, Mr Speaker. As regards the suggested site which I referred to, as my Honourable Colleague Major Peliza has said, I offered them and suggested them as places which have been suggested to me and I did make a proviso, Mr Speaker, that Government would be better informed than I. I don't think that they deserve the cynical approach with which they were dealt as if I hadn't been there, and other such absurd suggestions. But the Government, Mr Speaker, refuse to take motions from this side of the House seriously and for their lack of genuine response to motions they deserve contempt.

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

The Hon A J Haynes
 The Hon R J Isola
 The Hon A T Loddo
 The Hon Major R J Peliza
 The Hon G T Kestano

The following Hon Members voted against:

The Hon I Abecasis
 The Hon A J Canepa
 The Hon Major F J Bellipiani
 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 E G Montado

The following Hon Members were absent from the Chamber.

The Hon J Bossano
 The Hon W T Scott
 The Hon D Hull

The motion was accordingly defeated.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday the 8th November, 1983, at 10.30 am.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday the 8th November, 1983 at 10.30 am.

The adjournment of the House to Tuesday the 8th November, 1983, at 10.30 am was taken at 5.00 pm on Thursday the 20th October, 1983.

TUESDAY THE 8TH NOVEMBER, 1983

The House resumed at 10.40 a.m.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammitt - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
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 OBE - Leader of the Opposition
The Hon G T Rostano
The Hon Major R J Peliza
The Hon W T Scott
The Hon A T Loddo
The Hon A J Haynes

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

MOTIONS

HON M K FEATHERSTONE:

Sir, I beg to move that: "This House takes note of the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance". Sir, the wording of this motion is slightly different to the one we had on the Matrimonial Causes Ordinance motion, in which the House was asked to accept the report but I have it on the authority of Erskine May that it is quite in order that a Select Committee Report can be put in a motion in such a way that the House is asked to take note of it. This gives everybody an opportunity to express their opinions on the Report and, of course, the vote at the end will obviously be a unanimous one since one is simply taking note of it. The

point of a Select Committee Report, especially in such a small legislature as ours in which we do not have a large number of back-benchers, is that this is basically a report of the work of a number of Members on a specific subject and it does not of course bind the Government to acceptance of the Report at all. However, I am happy to say that as regards this report Government is willing and ready to accept a considerable amount of the Report but they must, of course, as is their prerogative, reserve the right to make specific amendments in certain areas and as I speak to the report I will try and give the places where the Government feels that some amendments should be necessary. When the report has been fully debated, a Bill will then be drawn up and promulgated and of course any suggestions by the Opposition which the Government considers worthy of inclusion in the Bill can also be added to it. The idea today is that we should have a good debate based on the Report itself but reasonably open so that the Bill that we produce should be the best Bill possible in the circumstances. Sir, as can be seen from our report, we have met on a good number of occasions, I think it was somewhere over thirty, and we saw many interested parties on the question of landlord and tenant provisions and our report actually lists the different groups that came to see us. One thing we noted from the very beginning was that the present Ordinance seemed to present considerable difficulty for the general public to understand and interpret. In many instances, we found that the general man in the street did not know what protection he actually had and what rights actually appertained to him under the present Ordinance. This is one of the reasons why we think that the best procedure would be to have a completely new Ordinance in, we hope, more understandable language by the average person rather than amend the old Ordinance because the old Ordinance already has had a number of amendments to it and it is to some extent rather complicated, not only to understand as it was originally promulgated, but with the amendments and the amendments to the amendments we thought that if we would go through another long series of amendments it would be almost impossible for anybody but a lawyer to really come to grips with and therefore we thought that the best answer would be to have a completely new Ordinance, more easily understood by the general public who should then know fairly clearly where they stand. Sir, the basic philosophy of the Committee is that rent restriction on residential premises should continue to allow for stability and protection to the tenants. However, Sir, while this protection for tenants is being given, it was readily understood that landlords should obtain, as far as possible, a rent which would commit them to keep their property in a good state of repair and given them something over for themselves. In many instances, landlords mentioned that the rents they are receiving at the moment are so small that they cannot keep their property in a reasonable state of repair and this simply means that the property deteriorates, eventually gets into such a state that it is not inhabitable, a demolition order may be obtained, the property would then be demolished and there would be less housing stock in the private sector which would not only throw more onus for housing on Government but would be a loss to the community. One thing that I think is of interest to note is that we had a considerable number of landlords who appeared before us and

none of them per se said he was against the principle of some form of rent restriction. Their main claim was that the rents were too low, something should be done about them to make them more consonant with the situation appertaining that they need to do repairs and with the increases in the cost of living. The other criteria that your Committee considered was that housing should be primarily for the benefit of Gibraltarians and other permanent residents and that the transient population should be subservient to this need. There are instances at the moment where the transient population is taking up quite a lot of housing and Gibraltarians are in a very difficult situation. It was also a point that the Committee brought up that though Government is not bound by this legislation to apply to Crown Properties, it was considered that Government should, as far as possible, follow the provisions of such an Ordinance with regard to their own properties. Sir, to turn to some of the specific recommendations of the Report. The first recommendation was that all property built before 1954 should come under the aegis of rent restriction and here Sir, is the first juncture at which Government feels that some amendment should be made. Government feels that it would be more equitable that the rent restriction Ordinance should apply to all property built before the 1st January, 1945, and therefore, Sir, it is Government's viewpoint that everywhere that the figures 1954 apply in the Bill they should be amended to 1945. Sir, it has been appreciated that property can fall into different categories. Some is rather higher class than others, some have the advantage of a bathroom, some is the case in which the bathroom has actually been provided by the tenant, some is the case in which there is no bathroom etc., and therefore, a schedule has been prepared which would give three different categories of rent depending on the accommodation but in all instances the new schedule of rent docs provide for a considerable increase, somewhere between 200% and 300%. These rents, which will be the statutory rents, can be altered upwards or downwards on application by either tenant or landlord, to the extent of 25% and this application will be made to a new gentleman who it is proposed should be set up by the Government called the Rent Assessor and he would have the right, after listening to such applications, to alter the statutory rents up to 25% more or down to 25% less or some figure in between but of course there is provision that any adjudication by the rent assessor can be taken to the courts if either party is not satisfied. It is also considered acceptable that where a landlord, before January 1986 makes considerable repairs to a property, he could again apply to the rent assessor for an increase of up to 40%. This is with the idea of hoping that landlords will make considerable improvements to their property and they can see that some benefit will be obtained by themselves. They cannot just say: "Oh, if we increase or improve our property, we get nothing back for it". This would allow in one stance only an increase of up to another 40%. If a landlord puts his property in really good nick, then he can get a reasonably good return for the extra money he has actually put into improving the property. Another suggestion that the Select Committee put forward is that there should be a rent tribunal which should be an active body working on a permanent basis with statutory powers to deal with rent cases. It is

hoped that they will manage to adjudicate in the majority of cases but again, of course, should their adjudication not be satisfactory to the person concerned, an application to the courts is always there as a matter of right. Sir, there have been considerable allegations by various people in the past that the situation with regard to furnished properties or "furnished", in quotes, is a matter of considerable concern. This is something that the Committee did consider and they have come up with the suggestion that furnished properties should be put on a completely different footing to what it is at the moment. The Committee feels that furnished property should be treated, assuming of course that it was built before 1945, just the same as any other type of property and that the statutory rent should apply. Then for the furniture put in the landlord may charge an increase above that statutory rent and that increase should be the value of the furniture amortised over an 8-year period. If a person puts in high quality furniture and in considerable quantities, he may charge a reasonable amount of extra above the statutory rent for the furnished property but if, as has occurred in many instances, he simply puts in a few sticks of furniture of very poor quality, he then would only be able to charge a very small amount for it. This is of course one of the cases in which the rent tribunal would have the say because, obviously, there may be some bone of contention by tenant and landlord as to the value of the furniture. Sir, there are possibilities to decontrol furnished accommodation and methods for such decontrol as stated. Two important conditions are that the overall housing stock is not decreased and that there is no undue hardship to any sitting tenant. Decontrol can be done by proof that the structural alterations to a considerable extent have been done or are proposed to be done but, of course, we all know that there are certain people who say: "I propose to do this" and they do not do it having obtained the end for which they made the proposal and so there is a time limit during which such alterations must be done and if it is not done within this period then, of course, the decontrol will fall through. Here, again, the decontrol request must be made to the rent tribunal who will look into the situation and adjudicate on the matter. Sir, another provision is that the right of the statutory tenancy should be extended. Initially, the tenant in occupation as a statutory tenant at the time of the commencement of the new Ordinance will become the first statutory tenant and on his death the tenancy will pass to his spouse. Government feels that this may also be widened and passed to any other member of the family who has been living with that tenant for a reasonable period, 18 months or so. This might mean that if a person is living with his sister and he has no wife then, of course, the sister can take over the statutory tenancy. But on the death of that second statutory tenant then the tenancy would pass to a son or daughter of the original tenant who was also living there and had been doing so for a period of 18 months and on the death of that person it would again go to the spouse. The intention really is that it should be tenant, a sideways shift to the spouse or somebody living with them, on those two persons' death, down one to the next generation, the person who becomes a statutory tenant and his spouse. After that the tenancy would end. Of course, there are possibilities that there may be more

than one son or daughter living with the tenant who dies and there will be provision to see that one of them should be determined as the statutory tenant. One of the new things that the Government feels should be injected is that a clause similar to the present clause 7A should be incorporated in the Bill. This means that the tenant, once he is no longer a statutory tenant, can make an agreement with his landlord as to the rent and this new rent would become the statutory rent but it has to be approved by the rent assessor and the rent assessor would use as one of the criteria in accepting the new rent that it bears some reasonable relationship to the actual statutory rent if it was classified under the schedule. When I say a reasonable relationship, if it was 500% or 600% more then probably he would refuse it, if it was 70% or 80% more he would probably accept it. Again, the onus is on the rent assessor but, of course, the courts would have the final arbitration. Another provision is that where there is subletting and this may be permitted, the landlord should get a reasonable increase for such subletting. The increase suggested is 50% and sub-tenants would be protected to the effect that should a tenant give up the property, the sub-tenant should have the first right to taking over that property unless the landlord wishes it for himself or his family. It has been suggested that instead of allowing subletting, if the person doesn't need a certain room then he should give it back to the landlord and let the landlord let it. This would basically create considerable difficulties because perhaps the room that might be sublet is an interior room, the person effecting the subletting is willing to put up with a measure of inconvenience by allowing perhaps his kitchen and his bathroom or his toilet to be shared, it would create considerable difficulty if the room was hived off and given back to the landlord and therefore we did not feel that that was a reasonable suggestion. Sir, a completely new idea that the Committee is putting forward is the question of what the Landlord does with the rent he receives. We have found that many landlords say "Oh, I cannot afford the cost of a repair etc". Well, this may have appertained perhaps in the past when the rent received was very low indeed. But once the new schedule comes in after the passing of the Bill, the landlord will be receiving a reasonable amount of rent and the Committee feels that the landlord should put one third of this rent aside as a sinking fund to be able to pay for repairs and these repairs must be done as and when necessary and at least not less frequently than every ten years. Government feels that this sinking fund is a good idea but that it should be reduced after 2 years' paying to 15%. It has been put in the report that this reduction might be done after application to the rent assessor but Government feels that this should be a statutory benefit to landlords that after paying 33 1/3 for two years it then reduces to the 15%. This, of course, can always be changed in practice if one finds the landlords are not repairing the property and there will be penalties, of course, for landlords who do not keep their property up to the mark by repairing it as the law will state at least every 10 years. The monies in the sinking fund should be put into a local bank or an approved building society, the approval being given by the Financial and Development Secretary. This would have two benefits, it would produce interest to the landlord who would, if

it is in a local building society, get the first £200 tax free so he is getting an extra benefit, and it would provide more funds for building societies with the hope that more development of property would be able to take place locally. Sir, if a landlord wishes to decant a tenant to effect repairs, then the onus of the decanting, the Committee feels, should be on the landlord and once the repairs are done the tenants may return to that property and the fact that he has been temporarily decanted should not in any way destroy his original tenancy. The landlord must also, the Committee feels, keep the premises covered by insurance against fire and he will also be responsible for external repairs and also the internal repair of the electrical installation which are classified as an intrinsic part of the property. Other repairs will devolve upon the tenant. It is thought that the schedule that is being suggested for the new rents should be reviewed every 24 months. This does not mean to say that there must be a rent increase every 24 months but it must be reviewed and if Government in its review feels that some increase is reasonable, then that will be promulgated and the schedules would be increased by whatever figure Government considers is a reasonable amount. This, of course, will allow for the landlord to attain some benefit of extra rent dependent on possible increases of cost of living. With regard to business premises the recommendations of the Committee tend basically to give the tenant more security of tenure rather than the actual provision for the figure at which the rent should be assessed. As regards to the figure at which the rent should be assessed, this should be a matter of negotiation between landlord and tenant. If they cannot agree an appeal to the court can be made and although the suggestion in the Select Committee Report is that this should be the Court of First Instance, Government feels that it should continue to be to the Supreme Court more so now that we have two judges and the Supreme Court should be capable of doing the work quite adequately. The rent assessor would be available as an expert witness to be used by the court at any time that it is considered his services would be of value. The rent assessor would obviously use as his yard stick the type of the property concerned, the location, the area, the facilities that it has and the court could consider the situation using his advice, this does not preclude other expert witnesses, and then the court could decide what is a reasonable market rent for that property in that location. As far as the length of tenancy is concerned, it is suggested that longer leases should be given but there would be no objection in such a longer lease to clauses that the rent could be increased at specific periods and by specific amounts. The practice over recent years has been to give shorter and shorter leases and tenants often feel that their security of tenure is not as great as they would have wished. The idea is that they should be given a longer lease, possibly not less than 5 years, and if agreement can be reached between tenant and landlord that after a period of, say, 2 or 3 years an increase should be made then that can be stipulated in the actual lease. With regard to a landlord wishing to repossess property for his own use, this can only be done, it is suggested, if the landlord offers the tenant other equivalent property somewhere else but Government feels that the landlord should have the option instead of offering other property else-

where, to pay compensation and the compensation should be substantial both in time and money to the dispossessed tenant, according to a schedule which would be based on the tenant's previous time of occupation. This Schedule would not only determine the amount of the compensation but the time of notice to be given and also the period for which the landlord would have to use the property for his own use and not be able to let to another party unless he lets it back to the original tenant. The figures are still subject to some discussion but as an idea it could be that for a tenancy up to 5 years then one year's notice must be given and 3 years rent must be paid as compensation and the landlord could not let it for 3 years, or nett annual value, I am sorry. This would increase for longer tenancies in which both the compensation would be greater and the period of notice before the tenant has actually quit must be lengthened and at the same time, as I have said, the landlord would have to remain in occupation for a longer period of time. Another thing that the Government feels should be injected is that where the landlord wishes to obtain the property for the purposes of development and it is one of the basic tenets of the Select Committee that development should not be inhibited, then the landlord again should offer either alternative property or compensation but once the development has been completed then the original tenant should be offered a reasonably equivalent site in the new development to what he had before the development took place. There is also provision that a tenant may assign his property to a new tenant and that the landlord may not unreasonably withhold this permission, but in the instances of such an assignment there are conditions that the new tenant should continue the same or similar type of business. Obviously, if you had a shop that has been a retail establishment you do not want it to be, if you are a landlord, converted into, with the greatest respect to my friend, a butcher's shop, without at least the landlord having some say in it. But if it is going to be another retail shop then he cannot reasonably withhold such permission. Therefore, it is recommended that where there is a material change in the nature of the business the landlord's approval must be obtained. And in any instance of an assignment, usually such an assignment is for a consideration that the tenant receives, it is felt that the landlord should have some share in that consideration and this should, it is suggested, be a premium for the landlord's agreement of 2 year's rent. I would mention that as I have said before, Government is not bound by such an Ordinance but is ready to comply with it as far as it can be but Government must reserve the right in those instances where they have given a direct allocation of land to somebody to use for a specific purpose, then that absolute prohibition of the right of change of use must remain because it would be futile if Government gives somebody by direct allocation not by tenure, this is the important point, by direct allocation, a piece of land for a specific use and that person after a few months speculates and tries to hive it off to some other person for a completely different use, he would then really have obtained the property under false pretences. Sir, those are the main points of the Select Committee's Report but just before I finish I would have mentioned there is one other point which the Committee did feel of consequence, although it does not devolve precisely from the

terms of reference of the Committee. The Committee does feel that early consideration and enactment by Government of a Housing Ordinance would be a good thing. I therefore, Sir, beg to move that the House takes note of the Select Committee's report.

Mr Speaker then proposed the question in the terms of the Hon M K Featherstone's motion.

HON A T LODDO:

Mr Speaker, as a co-signatory of the report, of course I go along with it. I also realise that our report to the House is not mandatory on the House nor is it, of course, on the Government itself. When I was asked by the Leader of the Opposition to sit on this Select Committee I was given the broadest terms of reference possible. The important thing was that whatever we came up with development should not be inhibited in any way. I believe, Mr Speaker, that by and large, the Report does not inhibit development. But my own guidelines in sitting on this Select Committee was fairness. I had to listen to everything that would be presented before the Committee and then try and be fair to everybody. But, of course, every man's idea of fairness is not necessarily the same. One man might believe, in all honesty, one thing to be fair and another believes something else is equally fair. Within that fairness there is a degree of compromise, hopefully leading eventually to a consensus which again, by and large, I think the Committee did arrive at. The publication of the report has caused quite a stir as I frankly expected it would and the result is that nobody has been completely satisfied with the work of the Committee. Of course, the thing to remember is that this Committee, like any other committee, will not please everybody. But the way I saw it and the way I still see it is that I wasn't there to please anybody or displease anybody. I was there to see that fairness was done. We must not forget that it was due not to a little pressure from certain quarters at the abuses that were going on of the law that resulted eventually in the setting up of this Select Committee. Mr Speaker, although I had my reservation at the time when I was asked to sit on this Select Committee and in fact on one occasion I came very near to resigning from the Committee, in retrospect I am happy to have served on the Committee, it was a difficult Committee to serve on, it was a hot potato which understandably was not to the liking of all Members. I am sorry that the Honourable Mr Bossano did not wish to sit on this Committee and I can understand that it is a very difficult one. And as I said, Mr Speaker, I support the original report as drafted but in a similar manner that the Government find that they can now introduce certain amendments, when the time comes perhaps I might get a second bite at the cherry and try and introduce my own amendments. Before I finish I would like to thank the other Honourable Members who sat with me in the Committee for putting up with me in the long discussions we had and although once a certain cynic said that man does by committee what he has not got the guts to do by himself, and I will not go into the merits of that, I would rather like to think that the committee is an admission that in certain very

delicate areas no man should seek to play Solomon or Hamurabi. Thank you very much, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I would like to expand on the situation that arises in the case of a small legislature where the Members of a select committee dealing with a matter of this nature is composed, not only of Ministers but of Shadow Ministers and that is to say that no other Members are available to look at the matter as is done in the House of Commons with Select Committees made up of all kind of back-benchers and therefore it has got to be realised and I think the Honourable Mr Loddo has put it in a very nice way, that the Members were there representing or rather advising on their own views on the matter and of course they are not delegates in the sense that they can commit their respective parties but they are there to express their findings. I do not know what amendments will come which we will consider from the other side, and I think that, broadly speaking, the Committee's hard work and recommendations which I think the other Members of the House who were not in the committee ought to be very grateful for and I accept and I am glad that the Honourable Member has thanked his colleagues for putting up with him, I am sure that they all had a lot to do with putting up with each other whilst the long deliberations were made. But it has been said that the Report of the Committee has been opposed by both areas concerned, those representing tenants and those representing landlords, and subject to the amendments that have been put forward that would seem to show that they steered a middle course and did not take a course one way or the other otherwise one would have been very happy and the other would have been very unhappy. They are both unhappy so I think that that means that perhaps some right balance has been found. The areas on which the Government has thought fit to depart from the recommendations have been well expressed by the mover and they may be more elaborated later on either in the debate or subsequently when the Bill is enacted. We thought in this case, in accordance with regular House of Commons practice, that representations of select committees are taken note of and, in fact, in some cases, certainly in Westminster, not even action is warranted. A select committee makes a report and the Government publishes a White Paper of what it thinks about it and sometimes that may be the end of it. Certainly that was the case with the Foreign Affairs Committee Report and a good thing too that it was composed of a four page White Paper and that was the end. But in this case, of course, it refers to matters which are the subject of legislation, the other one was a broader one in terms of foreign affairs and I think that the areas which we have attempted to better, if I may say so, some people may think it has been worsened, it is to keep a fair balance between the rights of property and the rights of tenants. I think that it is very important if we are living in a mixed society, in a society where neither the Government wants to collar or unfortunately though it may be driven gradually by a force of circumstances to own a big part of the dwellings of Gibraltar by lack precisely of private initiative to provide precisely because of some of the problems that have been gone into by the Committee, I think that the recommendations in respect of that makes it much more realistic

and perhaps will encourage landlords to be able to develop more their properties for local consumption and not just for letting furnished to mainly outsiders since the kind of rents that are probably justified having regard to the sort of cost of building are provision that is made, the average local person who pays his salaries from his own pocket and is not supplemented or helped by the company that sends him here, or the Government that employ him, can hardly afford which is the situation in most cases. On the other hand, to inhibit development by controlling all furnished flats in Gibraltar or by controlling all properties in Gibraltar, would be very detrimental to the workforce and to the whole of the economy. Of course, we are trying to see whether we have got it right, we do not say we have but we have tried to seek the fairest way, a half way as we see it, as between the right of people to be protected in their businesses or in their dwellings and the right of property owners to be able to feel that the property belongs to them and not to the tenant. Insofar as the bulk of the recommendations of the committee are concerned, Government has accepted them. We have made certain reservations which will be reflected in an amended Bill that will be produced and debated at the next meeting of the House, hopefully, and then when the law passes, then of course this vexed question of the moratorium will be done away with because the moratorium has only been extended until we get something in its place. If we finish the recommendations and it has been done always at short periods in order to urge those who are dealing with this matter to get on because there were certain dates, though it has had to be extended several times because the time the Committee naturally took because of the number of people who went before it and because of their deliberations, as soon as some substantive Ordinance is passed, of course, that in itself will be the end of the moratorium and as has been done before we have done it at short periods to urge us not to come again if possible for another extension of the moratorium and find a final solution to the problem by getting a Bill to substitute it.

HON J BOSSANO:

I shall be voting against the Motion, Mr Speaker. No, I am not going to take note and it seems to me that in voting against the motion I am doing the most honest thing because it seems to me that very few other people are taking note of what the Select Committee has been doing. I opposed the setting up of the Select Committee, Mr Speaker, in 1981 on the grounds that determining how property and renting should be controlled as a matter of policy was a political decision for which the Government in power should accept responsibility and was not the sort of thing which should be treated in an all-party basis. It seems to me that we now have a situation where the Select Committee having been put into function two years ago, now finds that its Chairman introduces the Report to this House by saying where it is that he does not agree with the recommendations he made and he signed. The Government, surely, must give its views through the Minister that is responsible for the legislation and not through the Chairman of the Select Committee who is speaking as the Chairman of the Select Committee. I would have thought the Chairman of the Select Committee might well say, "The Government

does not agree with me, but I think the Government is wrong and I am right, otherwise I wouldn't have signed it". I find that the Government says it is going to bring along legislation and therefore I will wait to see the legislation and then I will make the position of my party known in the way I vote on the Government's proposals and at the time I will decide whether there is any point in moving any amendments or not. I think as regards the actual study of the housing situation carried out by the Select Committee, one area that I find that the Committee has not looked at and it surprises me because the Chairman of the Committee said that they were looking to protecting permanent residents of Gibraltar rather than the transient population, is what I would consider an extraordinary omission in that unless one protects the transient population one cannot protect the permanent population because if the transient population is not protected, Mr Speaker, they are a more attractive market because the more is he exploited. I can tell the House that I have brought to the attention of the authorities and to the attention of the Attorney-General the fact that there are immigrant workers living in premises registered under the Labour From Abroad Accommodation Ordinance, who are paying a rent of £35, getting a receipt for £25 and the official rent is £17. And I have refused to disclose the name and address of the person in order to protect the person and I have not moved on it because in fact I have been told by the authorities that if the person moves he has got a very strong legal case and what would happen would be that the landlord would get fined and then the person would get evicted which of course is no good at all to the person affected. I would have thought that for these situations not to have been looked at by the Select Committee in two years is very peculiar indeed because it would seem to me that unless one is talking about giving protection to all tenants then by leaving an unprotected area the landlord will want to move in the direction of renting to the area where there is no protection. It also seems to me that there is a situation, I think created in 1980 I believe, by a ruling of the Supreme Court in an appeal where it was held that the rights under the Labour From Abroad Accommodation Ordinance were the rights as a lessee and not as a tenant and that therefore the person living in registered premises did not have the protection of the Landlord and Tenant Ordinance. I am absolutely sure in my mind that when the Labour From Abroad Accommodation Ordinance was enacted by this House of Assembly it was not enacted to deprive emigrant workers of rights they had before, it was enacted to give them additional rights, that is, the law was intended to ensure that certain standards were established for the protection of immigrant workers because we had a situation where for the first time Gibraltar was depending on an immigrant workforce that was not commuting but, in fact, residing in Gibraltar. I am absolutely sure that it was never intended at that time by the House of Assembly and by the people who were here then that that was in order to take people out of the safety of the Landlord and Tenants Ordinance and leave them with no protection at all. I would have thought that that was a matter which certainly the Government should be aware of through its own machinery and therefore it is a matter if the Government wanted to do this through a select committee that would have made an appearance in the report.

HON CHIEF MINISTER:

If the Honourable Member will give way. It seems from what the Honourable Mr Loddo mentioned that the Honourable Member had been invited to form part of the Select Committee and refused and I understand that the Honourable Member did not provide either a memorandum or appeared before the Select Committee. Surely, these points which are raised and which can very validly be raised, not only now but when it comes to the Bill itself, they are all very valid points, but it is a pity that when the Committee was making an effort over this period that these areas which are of the particular interest of the Honourable Member were not brought to the notice of the Committee who could then have taken note of them and made specific recommendations. Insofar as non-compliance with existing legislation, that is different. If it is abuse of existing legislation then of course it is a matter of enforcement or lack of enforcement, the same as the question of workers. They do not work, we do not take any disciplinary action but we know they do not work. It is the same thing people are abusing certain things and nothing is done. Well, that is wrong, it is wrong in both cases. If people do not work they should be told that they ought to work. If people overcharge, they should be told. It is a pity that that is not so but there is still time and I am sure that the House will benefit from the Honourable Member's contribution when the time comes. Finally, I do not want to take advantage of his having given way to deal with more matters than is necessary, I would like to say that it is not a special procedure that has been adopted in this case. When my Honourable Colleague mentioned Erskine May, it is the way in which reports are received. Erskine May's latest edition at page 665 on select committees says, "In both Houses debates on select committee reports now usually takes place upon motions to take note on a report".

MR SPEAKER:

May I perhaps in this instance say that I have been asked for my views on the manner in which the matter should be proceeded with. There are several manners in which this can be done as it was done in the other select committee's reports in which it was an approval. There is this procedure which when there is, perhaps not divergence of opinion, but when there is reason why the House wishes to debate the general merits and principles of the Select Committee's Report, it should take note and that will give a chance to very single Member of the House to express his views and it is an accepted procedure.

HON J BOSSANO:

Mr Speaker, I am not disputing that the procedure is accepted in the House of Commons and I am not suggesting it is unconstitutional. I am saying it is unusual. To my knowledge it has never been done before, certainly in the 10 years that I have been in this House of Assembly.

MR SPEAKER:

May I say in fairness to your remarks that there have been very few reports of select committees for many years and, therefore, since there are different options in this particular case they have accepted to proceed in a manner which is completely and utterly acceptable.

HON. J BOSSANO:

I know, Mr Speaker, I am not saying that the decision of the Government to bring a motion or the decision, presumably, of the select committee, because what I find strange, Mr Speaker, is that if there are people signing a report recommending something, I would have thought that if I came here to recommend something to the House I would ask the House of support my recommendation, not to note it. Obviously, the motion says that it is being noted because the people on the Government benches and the people on the Opposition benches who belong to the same party as the people who sat in the committee, are not willing to accept the recommendations of their colleagues. That to me must be obvious. Since, as I understood Government decision in July 1981 when they brought the Bill to the House and I disagreed with parts of that Bill, Mr Speaker, but I didn't disagree with the fact that it was a Government function to bring legislation to this House and the Government said, and I think is being repeated today, that in view of the fact that the area was a controversial one, instead of proceeding to implement the policy of the Government, a Select Committee would be set up in order to arrive at a consensus which obviously by definition would not then be controversial as it would have been if the Government had tried to use its majority in this area although they clearly have no difficulty to be using it in other areas which are even more controversial, where they are quite happy to pass the Shiprepair Bill by a majority of one and the motion accepting commercialisation by a majority of one. But in this area the Government wanted to move by consensus and as I understood it, the purpose of the select committee precisely was (a) to go into the matter in greater depth, and (b) to produce recommendations which would enjoy the majority support of the House but which I was not prepared to commit myself to because I said at the time, we can look back in Hansard on the debate on the setting up of the Select Committee, and it is all on record there, Mr Speaker, I have not checked it but I have got a good memory, I said at the time that as far as I was concerned, representing my party, we had our own policy and as far as we were concerned we would want to implement our policy not the policy determined by a select committee because I thought this was clearly a matter where Government or party policy was a perfectly legitimate thing. As far as I am concerned, the fact that the Chairman of the Select Committee then introduces his report and says that we the Government cannot accept the things that I the Chairman am recommending, vindicates entirely my arguments of two years ago. If the Government had come two years ago with its Bill and we had debated the thing in this House of Assembly and gone through the motions, the law would have been changed by now. It seems

to me that a great deal of the work put in by the Select Committee, quite frankly, has not produced a result because we are back to square one now. The Government are going to bring a Bill to this House, that Bill commits Government Members although it may conflict in part with what those Members recommend in their report which we are being asked to note, and Members on this side of the House, as the Honourable Mr Loddo has said, are equally free to make proposals or amendments to the legislation which again may conflict with the recommendations that those Members in this House have made in the report that they have signed. Of course, I am certainly free because I have not made any recommendations. I have not sat on the Committee, I voted against setting it up and I have not given any evidence. I am bringing to the attention of the House that it seems to me extraordinary that a Committee which is supposedly charged with going into such depth, should have missed such an obvious area which Government should be aware of. Surely, Mr Speaker, if the Government is studying this matter and has the machinery and the resources and the administration to do it, surely the Chief Minister is not asking the House to believe that unless and until I bring the matter to the attention of the House nobody in the Government is aware of it because that is not so. Everybody knows that this goes on and everybody knows, certainly, given the fact that we have a number of lawyers who professionally are involved in this area, they must know about the 1980 decision in the Court of Appeal. They must know that as a result of that decision it was determined by the Court that labour from abroad living in registered premises are not covered by the Landlord and Tenant Ordinance and in that decision which in fact, the Government agency, the Public Health Authorities, were trying to give protection to people who had gone there, as a result of that decision, the Government agency now advises people that they cannot make use of the Landlord and Tenant Ordinance so they must be aware of that omission without my bringing it to their attention. And in two years no Government Ministers, all of whom were willing to give evidence to the Committee, thought of giving that evidence, I find it very strange. But in any case, Mr Speaker, as I say, apart from these preliminary remarks when and if the Bill actually materialises before the House finishes its term, I shall in all probability be putting the alternative of the party that I represent.

HON P J ISOLA:

Mr Speaker, I would agree with the Honourable Member in what he says at the end of his address and indeed what he said at the beginning of his address that of course a party political response to the landlord and tenant problem must inevitably come with the Bill when it comes to the House and it is then that I think that all Members will have to take a view on the legislation. Here we are just being asked to take note of a report of the Select Committee on landlord and tenant and let me say to the Honourable Mr Bossano that, yes, we had to think a lot about before agreeing to serve on the Select Committee on Landlord and Tenant. It is a very tricky subject, it is a very inflammatory subject, it cuts across people's philosophy

about property, about socialism, about communism, about the rights of owners, about the rights of tenants, and so forth and, therefore, I don't think the decision to take the matter to a Select Committee by this House was wrong, I think it was a step in starting off thinking on new legislation. But I think the Honourable Member has in fact committed the error that perhaps we in the House have also committed when he talks about the Accommodation of Labour from Abroad Ordinance because he was isolating a particular Ordinance in the same way as we are isolating landlord and tenant from what should be a general approach to housing in Gibraltar, housing development, economic development and so forth. It may be inevitable because I think the answer to what the Honourable Member is saying, and it is not really relevant to this debate, but I think that it is a thought that he should consider, that the Accommodation of Labour From Abroad Ordinance as I understand the situation, is only part of legislation linked with the Control of Employment Ordinance and linked with employment permits. As I understand it the immigrant worker is not entitled to accommodation, does not have to find the accommodation, as I understand the law, perhaps it is not being applied, it is the responsibility of the employer to find him accommodation and the employer does not get a permit to employ the immigrant worker unless he has got accommodation for him. It is the same problem as the Control of Employment Ordinance which we discussed here some time ago when it is an offence for an employer to employ somebody without a permit but it is not an offence for a worker who works without a permit which to me may not be logical but I know there are international conventions and everything else and I think the question of accommodation of labour from abroad is linked with that here. In other words, if a landlord throws out a labourer or worker, an immigrant worker, from a lodging house, that immigrant worker's employer has to find him accommodation. I really cannot understand why an immigrant worker should pay more rent than the law has decided he should pay for accommodation. There may be need to strengthen the penalty clauses in the Accommodation of Labour from Abroad. There may be need to ensure that an immigrant worker cannot be thrown out of accommodation unless a case is made out on certain grounds. I know about this decision that my friend has remarked about and I was a bit surprised, I must confess, about it, but as I understand I can see the logic of it, because what the law is doing is protecting the worker (a) by insuring he only resides in accommodation that is meant to be up to standard, if it isn't it is the fault of the authority, the Government, the Minister for Public Works or the Minister for Medical and Health Services or the Unions for not bringing it to the notice of the Public Health but the Accommodation of Labour from Abroad law provides minimum facilities, says what it must have, says that it is the responsibility of the employer to find accommodation for the immigrant worker, presumably that is to ensure that you don't have immigrant workers having to live in any accommodation of any kind. I think the fabric of the law where an immigrant worker is concerned protects him. If, in fact, there is no actual protection, surely one must go to the reasons for this and the reasons for this must surely be in the enforcement agencies and in those who represent the immigrant workers because

the law as I see it on that seems to be very protective of the immigrant workers. As far as the owner of a property is concerned which is guided by the Accommodation of Labour from Abroad Ordinance, he has to comply with all the conditions I think the Public Health puts. If the Public Health Department is failing in that, then that is the responsibility of the Public Health Department. If a worker is thrown out and there may well be a need for amendments to the Accommodation of Labour from Abroad then I wouldn't be surprised, but what one has to bear in mind is what the law does both in control of employment

HON CHIEF MINISTER:

Will the Honourable Member give way. It is the Labour From Abroad not Labour Accommodation From Abroad.

HON P J ISOLA:

What it is meant to do is to protect the worker, if it is not doing its jobs that is different. That is entirely different, Mr Speaker, from making the worker a tenant, because the worker is only here as a result of an employment permit and it is the responsibility of the employer to find him accommodation. And, incidentally, if the employer is not able to find him accommodation that permit of employment is cancelled and the immigrant worker cannot stay in Gibraltar. That is the law, it may be wrong. That is why I am saying this is the mistake of approaching a piece of legislation on its own. One must look at the whole fabric and with immigrant workers we must look at it in my view, Labour from Abroad Accommodation, the Control of Employment and the Public Health Ordinance. They all have to be taken together but that has nothing to do with what we are talking today. What we are talking today is where the relationship of landlord and tenant applies and all we are doing is taking note of the report of the Committee. I would, Mr Speaker, certainly like on behalf of my colleagues to thank the Committee for doing what was indeed I think a very difficult job in trying to draw a line, trying to be fair between a landlord and a tenant. A very, very difficult matter, I think, in a situation where landlords are in a very, very small minority and tenants are in a very large majority. It is not unexpected as a result that the report should be more favourable to the interests of tenants than the interest of the landlords, especially in a place like Gibraltar where land is a very valuable commodity and a very scarce one, it is not surprising that that should occur. Mr Speaker, my Honourable Friend Mr Loddo has already told the House that I had reminded him of one of the important factors that must come into the Landlord and Tenant legislation and that is the overall need to have economic development in Gibraltar, the overall need to keep development going in Gibraltar as an important factor in maintaining the economy and in maintaining standards of living. But I think looking at this report, generally, one also has to consider the background against which the new legislation is going to come in and unfortunately it is not a happy background because it is a background where housing development by the Government has come almost to a grinding halt. There are a lot of people on the

housing list and very few houses going around. When dealing with landlord and tenant legislation, and I was glad to hear the Minister for Public Works mentioning that it was hoped to have a Housing Ordinance brought into force to try and get all these things together. When you are talking of a landlord and tenant legislation you have to bear in mind all the other problems and I think, for example, Action for Housing is obviously very concerned about the lack of housing accommodation in Gibraltar as we all are but I fear that an amendment of the Landlord and Tenant legislation will not produce the good of suddenly producing for these 1,800 families housing, new housing, fresh housing from the market at cheap rents. That is not possible, Mr Speaker. As long as it costs so much money to build, as long as salaries and wages are high, and rightly so, the cost of new accommodation must inevitably be high and as the return expected must inevitably also be high so that as far as people who are genuinely anxious for more housing, as we all are, then I think what is needed is more development of housing not just by the Government but also by private developers and more encouragement for people to buy their own houses and, Mr Speaker, this I think is very fundamental to solving Gibraltar's housing problem. In the recent past I have found that young people, married couples, are out to buy their own accommodation, are out to buy their flat. This is occurring in Spain. As we all know people are buying houses in Spain, they are forced to buy it but in a limited way, but as I have not seen it before it is also happening within Gibraltar. A husband and wife working are now buying a house, going to a building society or going to a bank, getting mortgage finance, saving, paying down the 20% or whatever and asking the bank or building society for the other 80%, and are buying their own accommodation in different places and I think this is good. I think this again depends on the philosophical approach that you have to the problem. I am sure the Honourable Mr Bossano probably does not agree with us and possibly does not agree with the Government if that is the Government's philosophy, and that is that I think that home ownership is a good thing, home ownership, should, if possible, be encouraged and helped a lot. I know efforts have been made on the part of the Government to have home ownership of Government housing, I personally think that the whole way it was done was completely wrong and this is why it failed but certainly leaving the Government aside, because only by getting people to buy their own homes, to pay for their own homes, can you then get more money into the system to build more housing but in the private sector I think that is also to be encouraged. Mr Speaker, I think I must be one of the few Members, I shouldn't say that but, anyway, I must be one of the few Members in the House who have actually read the draft bill that accompanies the report and talking on that particular subject of home ownership, there is a section in the Bill that rightly prohibits the payment of premiums for obtaining, this is to do with what is now going to be pre-1945 accommodation, for paying a premium to a landlord in consideration of getting a flat. I agree entirely. But what I think there should be or there could usefully be provision for and it could be put in the legislation with all the safeguards that are required and especially with the rent assessor around, what there could be provision for would be to

allow a flat to be sold in private accommodation, even in pre-1945 accommodation, to be sold at a premium to a prospective tenant provided the length of lease is, say, 50 years or over and provided that the rent is peppercorn rent, in other words, a nominal rent of £1 a year. If the landlord and the tenant can come to an agreement about a flat it should be possible and that is something that should be given thought to, to allow the landlord to take a premium then but then after that a 99 year lease or a 50 year lease at £1 a year or a peppercorn rent. I see nothing wrong with encouraging that. That has its complication as far as the maintenance of the building is concerned, it has its complications as far as repairs are concerned, but all those can be provided for quite reasonably. But I say that because in Gibraltar we have this problem of shortage of accommodation, we have this problem of maintenance of buildings, we have the problem that there are a number of buildings that should really possibly be demolished and rebuilt but how can you do that with 20 tenants in the building, how can you deprive tenants of their rights and this is a thought I throw out that might be worth pursuing, allowing a person in rent restricted accommodation to agree with the landlord the sale of his flat to him obviously at a nominal rent. That does not mean that you should allow a premium for pre-1945 or whatever it is the date that is finally agreed upon, just for the sake of getting a flat paying rent, selling the flat by way of a long lease and a nominal rent, that might be helpful. Because, Mr Speaker, I think, and the main problem talking of accommodation and private accommodation, the main problem that taxes my mind is the question of the protection of the tenants in occupation and the tenants who have been in occupation for generations. There are people who can probably trace back occupation of their flat in a private house for 60 years. They have already had the 2 generations, they could be in the situation of a third generation already. I think that there are a lot of flats today, in Gibraltar, decontrolled because of the wording of our present legislation where the tenant is not protected anymore, in fact, although he thinks he is. I think there are a number of those, there must be if the present legislation only protects the first generation and this Ordinance has been in force, well, the original since 1939, there must already be a great number of second generation people who are not protected and I am still myself not happy on the question of the definition of family. I think there is a need for a wider definition of family. You can get somebody who is a brother-in-law or a sister-in-law who has been living in a flat for 30 years and suddenly his sister-in-law gets married and goes and lives in another house and because she was the tenant out he goes, or if she dies out he goes. I think the question of people who have lived a long time in their homes has to be protected. I have noticed the re-introduction of Section 7A, and I will say to the Honourable Members in the Committee that it has never been quite clear to me why 7A went but I think the main reason for it is that as the Committee were putting a realistic rent there was really no need to have 7A which could inflate the rent. But I notice it is proposed to bring it back with the rent assessor being brought in which is not a bad idea because the rent assessor would know what is the sort of rent. The only thought I throw out, I see the difficulty of protecting a tenant and

his family for ever into the next century and the century after that. The only possibility that I do see in Clause 7A is to say that when the second generation has occurred and therefore after that there is no protection literally, I think that the tenant whoever he might be within the definition of the expression "family", the tenant should have a right to opt for a 7A tenancy, should have the right to opt. In other words, the landlord should not be able to throw the tenant out without first allowing to exercise an option of a 7A tenancy. It means the rent will go up but it will be controlled by the rent assessor and therefore the criterion should not be the market value of the empty flat, the criterion should be a reasonable rent having regard to the fact that he is getting a flat. I think Mr Speaker, with the lot that has been talked, with the lot that Action For Housing has done and a lot that has been said on landlord and tenant, at the end of the day and although one must protect immigrant workers, one must protect transient population and one must protect chaps who come here and work here and all that, at the end of the day the fundamental person that we wish to protect is the permanent resident of Gibraltar, the Gibraltarian, and I think that it is in areas such as these that it is important to set up a system that gives reasonable protection to tenants and their families now and in the future and also allows for some departure after so many generations if it is thought that that is necessary. There is one other thing I must say. If the new Bill comes in, I think there has to be a cut-off point as to when this generation business starts because I personally have had experience where I have been told: "Oh, my family have been there for years" and I say: "Well, tell me who" but then when it actually comes to find out it is impossible because the estate agent who run that house 30 years ago is long since dead, his records have disappeared or an estate agent who does not keep records going back 60 years, he may only keep them going back 20 or 25. I think that is a matter that has to be gone into very carefully to ensure there is proper protection. Mr Speaker, I am just throwing out thoughts because as I said as far as we are concerned our response will be to the actual Bill when it comes and I think there are really serious problems in drafting this Bill and I have every sympathy with the Honourable and Learned Attorney-General. The question of reviewing rent, or the reviewing of rents that can be charged in the Schedule every 24 months even though they may not go up is, I think, a sensible one if it is coupled with ensuring that properties are kept in a state of proper maintenance and ensuring that properties are improved. And again I throw out a thought on this and that is again in very general terms, that the right to charge extra rent for improvement of property should only be allowed if the improvements are carried out voluntarily and/or by agreement and not as a result of court orders because if it is the court order then it means that some provision of the Public Health Ordinance may have been infringed and therefore it is putting right and it is no use then the landlord coming and saying "I am going to improve it". It might be, and it is just a thought I throw out, it might be a good idea to put the incentive for the increased rent when work of improvement is done voluntarily by the landlord or by agreement with the tenant in a constructive manner. I think what everybody here would agree and I think the general public would agree and it is the general

complaint one hears: "Well I do not mind paying more rent but let them have the place in a good state of repair, let me have a decent house". I am not so sure that the Sinking Fund will necessarily solve this problem, Mr Speaker, but if the Committee thinks that having a Sinking Fund is really helpful, well, so be it, there are certain advantages to be gained I notice from having a Sinking Fund, there are some Income Tax benefits to be achieved and if that is generally agreed I myself will have no objection to that but I notice in the draft Bill that I read, it referred to the court, work being carried out as a result of a court order. I presume that the court that orders it will in fact be the Magistrates Court. I think it would be dangerous to have orders to landlords coming from the Court of First Instance or from the Supreme Court because by the time the Order is made you could well find that the building has collapsed. I think the Magistrates Court is more appropriate and I presume that it is under the provisions of the Public Health Ordinance. I think that that is another thing I would suggest, that if one is looking at the Landlord and Tenant with a view to increasing rent and we are told, I would like to see it in practice, but if we are told that the rent increases are going to be substantial and so forth, then I think the Public Health Ordinance also has to be looked at because I think over the years I have not been personally involved very much in it but I think that over the years there have been gaps shown to exist in the Public Health Ordinance, especially with houses that are in derelict state and so forth and also the time limits that are given it has been argued are unnecessarily long or could be unnecessarily long, I think there is a need for more flexibility in the Public Health Ordinance, more flexibility for really urgent things to be brought to the court quicker, more flexibility for possibly the Government to step in and do the repairs and charge if they are urgent. There is some provision now, but more flexibility and possibly also, Mr Speaker, with the consent of the court, the tenant to do the work and be able to charge for it subject to safeguards, obviously, as a result of court orders. I think that if the philosophy behind the Landlord and Tenant Select Committee Report, the philosophy behind it is not just to put rents up but to improve living standards, to improve accommodation, I believe there is a need to look at the Public Health Ordinance as well. On furnished accommodation, Mr Speaker, I would like the mover of the motion, when replying, to tell us what the Government's views are on accommodation. This business in the select committee report that referred to accommodation built between 1954 and 1964. It seems to me that if the date for furnished accommodation is put back to January 1945, does that mean that that part of the Report goes, perhaps he would let us know. My feelings on furnished accommodation, my own personal feeling, is that the period of depreciation of 8 years could be a bit long and what I am afraid of here is the possibility that furnished accommodation far from improving pre-1945, you could create slum situations in furnished accommodation, I do not think that is desirable. I would have thought that as far as furnished accommodation pre-1945 is concerned, there should be some discretion vested in the rent assessor or the rent tribunal, I do not know who it would be, to permit increases in furnished accommodation in the case of properties where

standards are in fact quite high. I know a number of properties pre-1945 where the standard of maintenance is extremely high and I know of properties pre-1945 where of course it is extremely low and I think there could be a need for flexibility there, I think an 8-year depreciation could be a longish time when you are letting accommodation to people who do not own the furniture. When it is your own furniture you tend to look after it, it is just a point I throw out. The last point on the private accommodation recommendation that I must make comment on, Mr Speaker, and I really approach this one with great trepidation, and that is Mr Rent Assessor. There is one plea I put straight away. I noticed in the Bill before the House, well, it is not before the House, and I suppose there will be another Bill that covers it, and that is one thing I say very clearly, For goodness sake do not make the Surveyor and Planning Officer the Rent Assessor I notice the Bill says the rent assessor but if no one is appointed then the Surveyor and Planning Officer. The holder of that office cannot possibly begin to do the work. I am glad to hear that the point does not arise, the practical point, Mr Speaker, that comes up with the rent assessor is how on earth is this man going to do his work? He will be alright in 5 year's time or 10 year's time but how is this man going to deal with, say, 1000, and I don't put it at less, 1000 appeals from landlords, well, from landlords it is probably going to be 3000, every house, if they want to get the extra bit that the Minister has talked about. But tenants will also want to reduce this. I just cannot see how this is going to work in practical terms. I agree with the idea of a rent assessor, I think it is useful, I think finding a rent assessor, one who can do all these things is going to be more difficult than getting a Chief Justice, Mr Speaker, it is really a big problem in Gibraltar, and getting somebody from outside who does not know Gibraltar it will take him 2 years to find out. It is an enormous job and I think it is not for us to suggest increases in public expenditure but I really do think that the rent assessor will have to be more than one to start with, I just cannot see how one guy is going to be able to do this. Then, Mr Speaker, the back-up for the rent assessor. I have got some practical experience at the moment in the courts where you have got an additional judge who has been appointed but the back-up is not there and the situation in the courts I don't say is chaotic, it is never chaotic, litigation can always wait and it does wait very patiently, but I know the situation there is very difficult brought about by the fact that you superimpose something on a structure without the back-up and the rent assessor I think has got a huge problem to start with and I would hope to hear that a lot of work has already been done or is being done with information about tenancies, states of properties, schedules and so forth, so that the rent assessor would begin to start his work because I think that he is going to be overwhelmed on the first day. Action For Housing, for example, will probably keep him full-time. This is one of the aspects of the report that actually causes me concern because I think that the practical aspect of putting it into effect are going to require a lot of thinking and a lot of planning. The other point I would make is the question of the rent assessor and the rent tribunal. I looked at the Bill because that is how the report is going to be translated and I notice there was an appeal from the rent assessor and the rent

tribunal to the court and not an appeal from the rent assessor to the rent tribunal. I am not sure whether that should be interposed in between. Again, thought might be given to the rent tribunal during initially some of the work that the rent assessor is going to do so that he load can be shared. And then I come, Mr Speaker, to the rent tribunal which I noticed according to the Bill is going to be composed of 5 people. Certainly, before making a judgement on that one, one would like to know what sort of tribunal is going to emerge. Is it going to be a sort of trade licensing form of tribunal or you have got the interests of both sides represented, or is it going to be a rent tribunal where you have got a surveyor and you have got a legally qualified man and you have got a, I don't know, an estate agent, no, I don't think that is going to be appropriate, something like that. The rent tribunal is another one that poses a problem because the rent tribunal, I notice a legally qualified man should be Chairman, agreed, but I personally think that to start with it will have to be a permanent appointment. I cannot see a practising Member of the Bar being able to chair a rent tribunal. I think there would be a need to have the rent tribunal chaired by a permanent legally qualified chairman. They are certainly going to be busy enough for the first 3 or 4 years. I think to put a practising Member of the Board and get him out of his Chambers to sit as Chairman of the Rent Tribunal like he has done for instance in the industrial tribunal, would be unwise because you would have no continuity in decision of the rent tribunal, it would be the view of different legally qualified people. I think there should be a legally qualified chairman of the rent tribunal and I think that, possibly, the Stipendiary Magistrate could be considered for this job, he could sit in the afternoons only, in view of the fact that it is proposed to take actual appeals to the Supreme Court where there are now two judges. It might be a good idea to put either the Magistrate as Chairman, don't put the Registrar as Chairman because he is on the verge of a nervous breakdown, Mr Speaker, the Registrar of the Courts. The Stipendiary Magistrate or put it out to legally qualified permanent and pensionable and everything else that the Government does. But I think that instead of 5 it would be advisable, and I would like to hear what is proposed on the rent tribunal, it might be advisable to have just 3 Members, a Chairman and 2 others rather than 5 especially if they are going to have to be sitting a lot. I don't oppose the Rent Tribunal but myself and I think generally, it is agreed but again a lot of thought has to be given how it is going to work in practice. I think fees will have to be paid to bring something before the tribunal so that it is able to finance itself to a certain extent and also to prevent people going to the tribunal on flippant, let us put it that way, on flippant missions. The same way as you pay when you issue a writ £15, when you issue a complaint to come before the tribunal £2, £3, something should be paid. Mr Speaker, these are my remarks on the accommodation. On the business premises recommendations of the report, I think the Committee has genuinely tried to meet with what is in effect the biggest problem and that is the problem of the landlord who wants the premises for himself which in a bona fide case may not be unreasonable when a tenant has not been there that long and so forth but experience in recent

years has shown that there have not really been bona fide cases, there has been an attempt to get possession back of valuable property and it is not wrong in those circumstances that the Committee should react, let me put in this way, to the other extreme and produce a situation that is possibly unduly harsh and unduly unfair. The Government is suggesting that the landlord should have the option to compensate the tenant in accordance with the Schedule of the thing or alternatively to give him alternative accommodation. The problem that we have I think is that the option of alternative accommodation outside Main Street is not that difficult but could be difficult as well, but not that difficult. In Main Street the option is impossible. In Main Street if the Select Committee's recommendations are in fact carried out completely as recommended, let us have no doubt about it, the freehold of a business premises is in fact being given to the tenant with the compliments of the House of Assembly for ever. That may be fair, it could even be fair in respect of a tenant being there 40 years it is not even fair there but, alright, it could be argued. But in the case of a tenant who has been there for 2 year it is a very nice present, thank you very much. I notice compensation linked with time is something that can be looked at and we would certainly like to see the Government proposals on that. We have been talking about another possibility and that is the possibility again of an option to purchase the interest in a shop on a 99 year lease, in other words, you buy the freehold of your shop. Some tenants I think would welcome that, some tenants would not be able to afford it, some landlords would welcome it and some landlords would well say: "For God's sake, no, why should I be forced to sell my property". It could be left to the discretion of the court in the last resort because I can understand that there can be a very genuine case of a landlord but there can also be a very genuine case of the tenant, the tenant who has been there 40 years. It is hard and possibly it is wrong if the family has been trading in business premises for 40 years, that a landlord should be able to come along and say, "Well thank you very much, that is the end of your history as a butcher's shop", if my friend will pardon me. I think it is a genuine problem and I think that certainly we would like to consider it further and think about it a lot more and welcome proposals in that respect. The question of businessess being able to sell their leases again is another problem that occurs and it occurs always in a greater perspective in Main Street, not outside Main Street. I think outside Main Street the genuine goodwill value of the business represents probably 70% of the premium being paid on sale whereas in Main Street the goodwill value probably represents much less and the value of site in Main Street represents a much higher proportion. The Committee has come up with compensation to the landlord of 2 years' rent, that may be reasonable. Again, I do not know whether there should be a schedule here depending on length of time that a tenant has been in premises and so forth. For the change of use is something I don't quite understand in this sense, that what is the practical solution if a tenant sells his business to somebody else but the business to be carried on has to be the same, does that mean that if he wants to change it he has to negotiate a new deal with the landlord and pay more? I am not so clear why it is necessary to do that, there may be good

reasons the Committee had to be more protective with the landlord, I do not know, that may well be. The question of the Government being bound by the terms of the Ordinance, the Minister has been a little vague on this. The present position is that the Government is bound by the provisions of part 3 of the Landlord and Tenant Ordinance. In other words, where business premises are concerned, the Government is bound by the provisions of the law. Our view is that the Government should continue to be bound and I don't see the example that the Minister gave is a valid one. I think that if the Government allocates premises to a tenant for a specific use, the tenant cannot change that use he can sell it to me, the premises, but he cannot change the use without going back to the Government and then the Government can say "No, I refuse to change the use. I have let it as a store, and that is how it stays". I do not think the Government can do for itself what it is not prepared to do for landlords in commercial properties. In other words, that the Government should be able to tell a tenant "No, you cannot sell the lease that I have given you if I put a condition in the lease that you cannot assign", and yet the Government in the same Bill were telling a private landlord "If you put a condition in, you cannot assign, despite the fact that you put it in the tenant can assign by giving you 2 year's rent. The principle on business and commercial accommodation surely must apply to the Government as a landlord and as the private landlord, to both the same otherwise we are departing I think from a principle where business accommodation and business premises are concerned the law should apply equally to the Government, as a landlord, as to the private landlord. In fact, there is a lot to be said for the law applying to the Government also as a private landlord of housing. The reason why I say that is because in the past, rents on Government housing have been going up quite a lot to get it up to date for whatever reason but the tenant has had no one to appeal to, no rent assessor to go to or anything else, he just has had to pay. If that money was going into a Sinking Fund on the part of the Government to build more housing, fine, but if the money is just going into wasteful expenditure, wasteful administration, then there could be good reason for having the Government bound also as far as private accommodation is concerned by the Landlord and Tenant Ordinance but we are not going to talk about that today, Mr Speaker, that will be a matter for us when the Bill is brought before the House. Mr Speaker, I have talked for longer than I intended, my intention was merely to make a few observations on the Landlord and Tenant report and to reserve our comments of substance really when the Bill comes to the House but I have thought it prudent to point out areas where I think there are serious problems in the way of the legislation. Thank you.

HON A J HAYNES :

Mr Speaker, I don't think I need to remind Members of the House that I was a signatory to the Select Committee Report. Of course all my colleagues in that Committee will remember my desention from almost the entire contents. Nonetheless Mr Speaker, I did propose a number of measures which were accepted by the Committee and which is the reason why I put my name to the report and also

I had the confidence of the Chairman to inform me that my dissen- tion would be proper at a meeting or a debate such as this. . . Nevertheless, Mr Speaker, I note that Government has made further amendments to the proposals and I find them more in keeping with my own line and view on this matter. I remember my Honourable Colleague, Mr Bossano, at the meeting of the House before the Select Committee was appointed, referring to the need to look into the statutory tenant, the restricted tenancies in private dwellings, and it is perhaps simplistic, but nevertheless fair comment to say that the landlords have on the whole been losing on the side where they have restricted tenancies and making up the difference either in more modern furnished accommodation or in business premises when they also possess them. Therefore there is an imbalance, there was a need to change matters. I felt that matters had not been fairly redressed by the report but I note that in private accommodation the proposal to limit the number of tenants who may inherit and become statutory tenants is to be limited by the Bill. And since my own view and my own efforts in the Committee were designed to end statu- tory tenancies, I concur with this. Of course, Mr Speaker, one must consider the rights of the tenant in rent restricted dwellings and, regrettably, they are for the most parts irrecon- cilable with the rights of the landlord in freehold property. My own conclusion, therefore, two years ago or whenever it was that the Committee's meeting was, was that somehow we must get the relationship between landlord and tenant to come to an end and the only way that you can achieve that is by having the tenant purchase the property and I should remind Members and one of the contents of the report, it is not a recommendation, is that we should encourage home ownership. My view at the time was that the tenant be given the right to purchase the flat which he inhabited and that the tenant, apart from having that option, the landlord should also have the option of requiring the tenant to buy. Of course, there are a number of difficul- ties of a practical nature with this in that the tenant may not be a person of means and in that the two parties may not be able to agree to a figure. These practical difficulties can be resolved and that is what I thought by, for example, where the tenant and the landlord disagree as to the value of the premises and the landlord would, say, ask for 50% more than what the tenant is prepared to offer, then there should either be the right to appear before the court for them to decide, or the tenant can say "Right, I accept your valuation of the value of the flat and in those circumstances I cannot afford to buy", and the landlord's price would result in the landlord having to pay compensation of say 30%, 20%, to a tenant in order for him to leave. If one sees that this happens in a fairly widespread manner then we have a number of statutory tenants who have in their possession a lump sum of money which has been given to them as a result of their departure and which would be sufficient to entitle them to a down payment on a mortgage to purchase one or the other statutory tenancies that have become vacant. Another matter which I mooted, Mr Speaker, concerned the landlord himself. We had a number of complaints as regards landlords and certainly the Committee had before it evidence to the effect that some landlords were not behaving in a humane fashion. No one, let alone the Property Association, no one defends the unscrupulous landlord. Regrettably, nothing in our legislation distinguishes

between that landlord who does have a sense of propriety, frankness and fairness, and the landlord who does not. My own view, perhaps radical in the sense that I do not believe its legislated elsewhere, is that where a landlord has been shown to exploit his tenants, the landlord should be deprived of the management of his property for a period of time. It is rather like a driving licence, if he can't drive he should not be allowed on the road. If you are not a fit and proper person to manage property, if it has been shown that you exploit persons, then you should be deprived of the management of your property for, say, a period of a year as a penalty. I bring these matters now because Government has indicated that they depart from the recommendations of the Bill insofar as for example the time in which a statutory tenancy can continue as such. They have suggested limitations which are not exactly clear yet but I am sure that they will be, limiting it to, say, two generations. At the end of that time, Mr Speaker, one assumes it is no longer protected and that is it. Since I advocate home ownership, perhaps Government will consider the options which could be made available to the next tenant or potential tenant in line, in the event that the statutory tenancy has expired as such. My Honourable Leader, Mr Isola, has suggested that Section 7A be intro- duced. Of course, Section 7A as an option to the tenant is worthless if the landlord can expel him 6 months later so Section 7A would have to be linked to, say, a 5-year lease which should be open as an option to the tenant. But I would recommend further options which could be made available to the tenant when the statutory tenancy expires. These would be that the tenant should be entitled to offer to purchase the flat, a long lease for say 99 years. And again, Mr Speaker, if the landlord and the tenant do not agree, they should have either the right to appear before the court to adjudicate on the price, or the land- lord may accept the tenant's price, or the tenant in accepting the landlord's price would take a percentage of it in compensa- tion for leaving. I think, Mr Speaker, that such an option would result in more home ownership, and that is something that is not only desirable because it brings to an end the difficulties that exist in the legal relationship between landlord and tenant, but it also means, Mr Speaker, that money will be invested in Gibraltar in the purchase of houses which is an important economic factor which must be taken into account. And of course, again, both my Honourable Colleague Mr Bossano and the Leader of the Opposition have made reference that the Landlord and Tenant Ordinance is only one part of the total legislation which concerns landlords and tenants. Mr Bossano has referred to the Labour From Abroad Ordinance, there is also reference to the Public Health Ordinance. There are a whole host of subsidiary legisla- tion which must be brought into line with the Landlord and Tenant Bill. Once the Government has evolved a policy which is to govern the relationship between landlord and tenant, once they have evolved an objective or aim to which they strive and if home ownership is that aim, then perhaps they should consider giving greater capital impetus to the mortgage and Building Societies Ordinance to give the mortgage facilities in Gibraltar a real shot in the arm to make it more readily available to people in Gibraltar and as a further incentive if they give attractive tax advantages to those who undertake the purchase of a property

then that will further their aim or objective for home ownership. I have it very clear in my mind that home ownership must be our future and if there is legislation it should be designed to attain that objective. In the circumstances, Mr Speaker, I would hope to hear from the Government benches that this is their aim and if it is their aim, Mr Speaker, I would like to know what they propose to achieve because it is clear to all of us that you don't achieve that by the introduction simply of a Landlord and Tenant Ordinance. Mr Speaker, another point which has not been referred to in the opening address of the Chairman of the Committee are the recommendations as related to those flats built post-1954. As I remember, the Committee recommended that Section I think, 13 and 14 of the Principle Ordinance be applicable to flats built up to the year 1964 in relation to all furnished accommodation, all dwellings that a minimum limit of 6 month's notice to quit be introduced. If I may explain what Section 13 and 14 say. Sections 13 and 14 of the old Ordinance as applied to the new Ordinance by virtue of Section 32 of the proposed Bill would mean that somebody who is living in furnished accommodation which was built before 1964 could require that a market rental be applied to his flat. If restricted tenancies are ranged on the control of landlord and tenant then this one is a very light range, it is really an experimental section.

MR SPEAKER:

Am I not right in saying that Government has said that that date will be brought down to 1945?

HON A J HAYNES:

Mr Speaker, no, 1945 relates to total restricted tenancies. As I understand it, and I was not clear from the introduction made by the Minister, we have made three separate categories in the Ordinance. The 1954 category, the 1964 category and all others.

HON J B PEREZ:

By reverting back to 1945, the Minister says that you then have to substitute everything else by 1945, so the Government's view is that you ought to do away with that different categorisation of property and just have a 1945 so that goes by the board.

HON A J HAYNES:

I see. Does that mean that 6 months notice to quit also goes by the board or not, I am not sure, I suppose it does. We had recommended a 6-months notice to quit as a minimum period, Mr Speaker.

MR SPEAKER:

You must make your contribution and then the Minister will reply in due course.

HON A J HAYNES:

The report again has been altered substantially and it remains

to be seen, Mr Speaker, the exact approach by Government by way of compensation and notice. I am sure that Government will take the zones as referred to by the Leader of the Opposition into account and those zones of course are Main Street and everywhere else and they will also take into account the length of tenancy of any individual tenant. There is very little we can say until we see the precise recommendations of the Government and as such I shall refrain from comment.

HON A J CANEPA:

Mr Speaker, I am not going to range very widely over the matters that have been raised in the course of the debate because I think that that is rather more proper for the mover of the motion to do so when he has an opportunity when he exercises his right to reply to react to the points that have been made in some detail. I only want to deal with, rather briefly, with one or two matters which are more within the field of economic development both by the private sector and by the Government, notably with respect to housing. The Honourable Leader of the Opposition says that the report has to be set against the background of a rather serious housing policy having regard to the number of applicants on the waiting list and having regard to the fact that Government activity in the field of new housing has come virtually to a grinding halt. I think I should remind the House that we are right now very much in the process of borrowing money from the banks to be able to continue with more housing projects for which there is in fact provision in this year's estimates under the Improvement and Development Fund. But I think that the refusal by the Overseas Development Administration to finance Government housing should not for one moment be lost sight of. In my view, this is the greatest ever set back which the building of new and modernised houses by Government has ever suffered. Certainly it is the greatest set back since the war and therefore whoever is in office next year after the general elections faces also with very serious economic problems, I think given the attitude of the British Government to housing. They will very much have to think in terms of some form of cooperative building effort where by the Government and prospective owners would cooperate in the provision of further new housing units. What I have in mind is that I cannot see the Government next year, any Government, being able to afford to build housing units for £40,000 per unit. This is not realistic if the British Government is not prepared to help us with financial assistance. Perhaps if the cost to the Government of a housing unit can be reduced from £40,000 to, say, £20,000, if it can be halved, it should be possible then for the Government to build the shell of a housing unit and for the prospective tenant cum co-owner to complete the flat through borrowing, through mortgages. I think that mortgages of between £15,000 and £20,000 are not that difficult to obtain by people who have secure employment and I think that if the Government is able to offer an even greater incentive for people to deposit with the building societies, at the moment the first £200 of interest are tax free and that has been a very considerable boon. I think to the building societies in that very sizeable funds have been deposited with the building societies and they in turn have been able to provide mortgages for a considerable number of

people who have responded to the Government's scheme on the re-development of derelict or semi-derelict properties. I think if the Government is able to offer greater incentives like for instance doubling that, instead of £200 increasing the tax free element on interest to about £400, £450, £500, something of that order, that I think would mobilise even more funds for the building societies and they would in turn be able to lend to people who have a housing problem, who are on the housing list, and obviously priority would be given to people on the housing list, and in particular those who are further up the list, to get a mortgage that would enable them to co-develop with the Government in order to continue the momentum of new housing which Gibraltar has had ever since the war. If that is not done, I foresee very, very serious difficulties and even modernisation is no longer proving to be as cheap as it used to be. Modernisation in sites which have a difficult access is not that cheap. Certainly, the figure of £20,000 that I have mentioned in respect of what I think the Government commitment could be, this is also in line with what we are finding for some of the most recent modernisation schemes. That difficulty cannot be lost sight of if we talk about further development in the field of the provision of new housing. What about development by the private sector? Those two or three economists who I understand have had sight of the Select Committee's report I think are pretty well agreed that the implementation of that report as it stands, if we were to give legislative effect to that, that it would seriously stifle development. I think that is the view which independent economists have come to. Therefore it is important I think that in the legislative measures which are introduced in the House, that we should be careful that we strike a pretty reasonable balance in order that development in and by the private sector should not be inhibited, particularly over the next few years when such development is going to figure even more crucially in the economic life of Gibraltar. Finally, Mr Speaker, has this been a worthwhile exercise? In my view, it has been. I think it has been very useful to have had a committee that has been able to go into these very complex matters in considerable depth. I think that the advantages of their deliberations on these matters over a period of two years have been two-fold. In the first place, the matter has been very fully ventilated by the Committee, they have received masses of evidence. The matters have been ventilated in the media and at public meetings by pressure groups and by other interested parties and as a result of that I think that the fundamental issues are today far better understood than what they were two years ago and I think that Members of the House as a whole, both today and at future meetings of the House, will be able to make a much more positive contribution that will strike as reasonable a balance as is possible in regulating the relationship between landlord and tenant as we can in what I repeat is an extremely complex exercise which so often is coloured by emotional issues and by ideology and where we have tried, I think, with the setting up of the Select Committee and the debate here in the House too and I hope that we should be able at the next meeting to continue to approach this matter in the most positive and the most constructive fashion so that whilst preserving the rights of both landlord and tenant to the greatest degree possible, we also ensure that we do not inhibit that very crucial economic development which Gibraltar is going

to require over the next few years if it is going to survive as the community that we know.

HON M K FEATHERSTONE:

Sir, I would agree with the Honourable Mr Laddo where he said he approached the deliberations of the Select Committee with an attitude of fairness and I think this was what all Members actually tried to do, they tried to strike a reasonable balance between both sides. I am very sorry that the Honourable Mr Bossano is going to vote against even taking note of the motion. I am not quite sure how that can actually be because he must have taken some note of it if he has actually been able to speak about it. But, anyhow, he says he will wait till the legislation and then he will put forward his party's viewpoint and that of course is his prerogative. With regard to the question of immigrant workers, I think that there is already reasonably adequate legislation which can protect them, what is necessary is that it should be properly enforced. The Honourable Mr Isola mentioned the question of development. Well, of course, this Bill is not supposed to be the panacea for development of new houses and I don't think that private development will be inhibited or house ownership. This is something that obviously is to be assisted as much as possible and I don't think the fact that property before 1945 is going to be rent restricted is basically going to inhibit new buildings or even house ownership. Some of the points that the Honourable Mr Isola made are very worthy of consideration and Government will consider them. It is quite a reasonable idea that a tenant should be able to opt for 7A, and it is also a very reasonable idea that if a tenant wishes to purchase them some scheme may be set up by which we can come to an agreement with his landlord even if necessary by application to the courts. The question of the increased 40% rent where improvements have been done, these must be genuine improvements and I think the Honourable Mr Isola has expressed the spirit of the report where he said it should not be done simply because it is required by the Public Health Authorities. I agree with him that some speed-up by the Public Health Authorities in dealing with properties which are in a bad state could be a very good thing. The question of the rent assessor and the rent tribunal, I am very pleased to see that the Leader of the Opposition does see these two entities as good ideas, we do appreciate that there will be difficulties at the beginning. The question of the rent tribunal, the idea was to have 5 people of which at least 3 would be available at any time, perhaps not all 5 are necessary, and we will definitely look at his suggestion that perhaps the Chairman should be the Magistrate. One is to hope that they will not be deluged with a flood of frivolous applications and perhaps the suggestion that some reasonable charge should be made for their deliberations is worthy of consideration because, obviously, this is going to be one more charge on Government expenditure and if some thing can come back into the Government coffers then it would not be unduly unwise. Regarding the option to purchase the freehold of a shop, this also I think is worthy of consideration but, of course, the situation can be somewhat complicated where the landlord may ask for a very large amount of money and the tenant is not able to meet it and then

the landlord might use that as the lever to say "Well, I have given you the chance, you didn't take it, out you go". The question of the change of use. It was mentioned that it should be a material change of use. For example, if it is a shop, a retail shop selling clothing, I don't think there would be any objection to it changing into a shop selling electronic goods or changing it into a shop selling boots and shoes, but should it change into a fast food shop or a bar, that would be more of a material change and that is where the landlord would have to be consulted before permission could be given. But if it is a simple change of one type of retail shop for another type of retail shop then he would not be able to make a basic objection. The reason why the Government wants to have an absolute prohibition clause contained was in the instance as I mentioned where they gave a direct allocation. This is where a specific piece of land has been given to somebody for a specific purpose beneficial to the community. For example, a piece of land who has been given to somebody who was going to set up a garage, where he was going to repair the vehicles used in the transport system. And if, tomorrow, he were to assign it to somebody else who was going to use it instead for a warehouse or storing drums of oil etc., this would not be the reason why this piece of land had been given as a direct allocation. If it has been a tender it might be a different thing, it is the direct allocation cases where we are particularly concerned. As far as the Honourable Mr Haynes' contribution, well, he did sign the report, he has made his own minority report at this actual meeting so when we get the Hansard we will have his minority report. But we did have the benefit of some of his ideas, I think we did consider some of them were a little obstruse the fact that you seem to be able to take a landlord and cancel his licence for a period of time if he is a naughty boy rather like if he is a bad driver, was a little bit more that the Committee could actually swallow. Sir, on a personal note, I would like to say that as Chairman of the Committee I had the utmost cooperation from the Members all the way through and in particular from the Attorney-General who gave us very much useful assistance especially as I said in interpreting the present law which was very complicated. I would also like to take the opportunity to thank, I will not mention him by name, although it is by name in the report, the Clerk that we had assisting us, who did excellent work for us and helped us all the way through. Apart from that, Sir, I have nothing more to say, I do hope that all Members will take note and even perhaps the Honourable Mr Bossano might be able to do so as well.

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 A J Canepa
 The Hon Major F J Dellipiani
 The Hon M K Featherstone
 The Hon Sir Joshua Hassan
 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 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 Members were absent from the Chamber:

The Hon A J Haynes
 The Hon W T Scott

The motion was accordingly passed.

The House recessed at 1.05 pm.

The House resumed at 3.35 pm.

At this stage the Hon W T Scott joined the meeting.

BILLS

FIRST AND SECOND READINGS

THE GIBRALTAR SHIPREPAIR LIMITED ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to make provision, so long as the Government of Gibraltar holds shares in Gibraltar Shiprepair Limited, a company formed and registered in Gibraltar, for the manner in which the Government may dispose of its shares and for related matters, be read a first time.

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

The Hon A J Canepa
 The Hon Major R 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 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 I Abecasis

The Bill was read a first time.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be read a second time. Before I make specific reference to the general principles and aims of this Bill, I feel I should outline some of the background and highlight the wider objectives and explain the general philosophy behind the concept of the new proposed shiprepair company. When in September, 1982, the consultants submitted their recommendations on proposals for the commercialisation of the Dockyard, they suggested a broad basis for a corporate structure for the new operation which would ensure that, firstly, Gibraltar would own its fixed assets, secondly, the commercial enterprise would operate without undue political or bureaucratic interference, thirdly, there would be opportunities for local financial and managerial involvement and, fourthly, that the managers would have a clear financial commitment to the long term viability of the dockyard. The matter was subsequently examined in detail during the course of the project study stage which was completed in early May, 1983. This summarised considerations of a draft memorandum and articles of association for the proposed company as well as lengthy discussions on the proposed draft management agreement which the new company would have to consider finalising with the prospective managers of the new yard. Having regard to the advice given by consultants, the Gibraltar Government decided that the future operation of the dockyard should be undertaken by a new private limited liability company. This would set the basis for the company to be run on commercial lines and detach it from detailed directions by the Government of the day. The company will nevertheless be fully owned by the Gibraltar Government, at least initially, and this is important, Mr Speaker. The dockyard land and buildings will be owned by the Gibraltar Government. Substantial public funds are to be invested in the project. The project itself is of major if not crucial importance to the future economic stability of Gibraltar. The Government was concerned that the new operation should not be overexposed to private sector control. It had, for example, ~~been suggested~~ even proposed in one of the leading bids for the dockyard, that the assets should be leased to a privately owned company who in turn could sublease individual areas. Quite apart from the difficulties which this could pose for national economic objectives, possibly even public accountability, that concept would place a private company in a privileged position whereby its interests could superimpose those concerned with the development of new activities and the economy as a whole. What the Government therefore proposes, to put it simply, is

that it should own both the fixed assets and the operating company. The preferred operator would be engaged to manage the undertaking in line with the terms of a management agreement. The division of responsibilities will be defined to enable the Government as the sole or majority shareholder, not only to give policy directions but also to monitor and if necessary exercise reasonable control over the activities of Gibraltar Shiprepair Limited in a situation where the company might not be acting in the best interests of Gibraltar. Indeed, there are overriding provisions in the articles of association which give the Government the power to remove directors from the board of Gibraltar Shiprepair Limited. Equally, the Government does not propose to constrain the activities of the company unduly. It is a fine balance which will need to be developed and tested over time as and when the operation progresses. Mr Speaker, Members have been circulated with copies of the draft memorandum and articles of association of the company. The Government is conscious of the concern and fears which have been expressed about the activities of the new company. This featured in a motion presented to this House in March this year by the Honourable and Learned Leader of the Opposition. It has also been the subject to representations by interested parties within the private sector. These representations were taken into account during the project study stage as far as was considered reasonable. When examining the memorandum of association Members will note that the objects of the company are clearly and exhaustively defined as is the established practice in company law. The Government considers that the memorandum should be fairly wide in the interests of commercial efficacy and that the control over GSL should be exercised via the articles and the policy directions which will be given to the board of that company. The principle object clause enables the company to carry out all or any of the business relating to shiprepair, fitting out, constructing or demolishing ships or vessels of any description. The remaining clauses are intended to empower the company to engage in each and any activity necessary for a pursuit of this principle objective. As is normal practice, for example, provision is made for the company to have powers to raise, invest and lend money for the purposes of the business. Procedures for shareholders meetings and voting are set out. The powers and duties of directors are defined. The articles prohibit the payment of dividends other than out of profits. Instructions are set out for the compilation of accounts and audit. There are further safeguards or controls, Mr Speaker, which are covered in the terms of the proposed draft management agreement. I should say here that the agreement will be brought to this House at an appropriate stage once the board of the proposed company has had an opportunity to consider and form its own views. The House will wish to note that the proposed terms of the management agreement will define the business which the manager can undertake and that any other additional business which it may wish to pursue shall be determined and agreed by the board of Gibraltar Shiprepair Limited. The present draft confines the business of the managers of the yard to shipyard business. This relates to businesses directly or indirectly carried out in connection with shiprepairing, shipbuilding, ship demolition and steel fabrication and industrial engineering connected therewith. I hope that this will bring some perspective to the concern

expressed about the dangers of a wholesale take-over of the private sector by the manager of the commercial yard. For a start, the manager or managing company cannot do it. Secondly, the wider powers rest with Gibraltar Shiprepair Limited who are in turn subject to policy directions of the Government. Theoretically, a major takeover could only in practice take place if the Government so wishes. That risk, Mr Speaker, if I may say so, is in theory ever present. I would, however, be far more concerned about a real takeover if the company which operated the Dockyard were privately owned and not effectively under any measure of Government control. On a more detailed note there is also provision in the management agreement for the appointment of a controller who will have full access to the business, undertake approvals or investigations on behalf of the Board, and examine the details of the company's trading activities and its accounts. The controller will serve almost as a daily watchdog on the activities of the new company and its managers. I would now like to turn to the question of the Board of Gibraltar Shiprepair Limited. The Articles of Association provide that the directors shall be not less than three and not more than ten in number. The directors shall be appointed in writing by the subscribers to the memorandum of Association, that is, the Gibraltar Government. It is proposed that initially there should be a Board of seven. There would be a Chairman who must have wide and recent experience as a company director, preferably in shiprepair or in an industrial commercial company. The other directors should include persons with suitable knowledge and background on finance, labour relations and commercial shiprepairing. One member would be a representative of Her Majesty's Government, possibly a senior officer from the ODA. It is proposed to include some representation on the Board from the manager of the yard. It is hoped to have as much Gibraltarian representation in the Board as possible. There are likely to be problems in finding local Gibraltarian businessmen with the necessary expertise who are not involved in activities or have interests which could cause a conflict of loyalties or a direct confrontation of interests. It is likely that initially some of the directors may have to be recruited from abroad. The Government has already initiated enquiries through the ODA on this matter. Mr Speaker, I would now like to comment on the specific provisions of the Bill. I should explain that for the time being it is being proposed that Gibraltar Shiprepair Limited should have a nominal share capital of £1,000. It is proposed to increase the share capital of the company to some £25m or more. This sum is intended to cover the costs of new investments in the Dockyard including the cost of plant and equipment acquired by the GSL together with its forecast requirements for working capital and operating losses. The share capital will therefore be increased in parallel with the actual injection of funds for the new project. The main purpose of this Bill is to regulate the holding and disposal by the Gibraltar Government of the shares in Gibraltar Shiprepair Limited. The Government will not be able to dispose of any of the shares in the company without notifying this House or in the case of disposal of more than 25% of the shareholding without the approval of this House. Provision is made also for the accounts of the company to be audited at the end of every financial year by the Principal Auditor for as long as the Government of Gibraltar holds a

controlling interest in the company and in this case by controlling interest we define it as beneficial ownership by the Government of more than 30% of the issued shares of the company. To conclude, Mr Speaker, I trust that in presenting this Bill I have covered the main areas of concern or interest which are directly related to the corporate structure for the commercialisation of the Dockyard. 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. P. J. ISOLA:

Mr Speaker, if as much thinking has gone into this Bill as has gone into the project of commercialisation then I think we can indeed be pessimistic about the outcome. The House well knows the feelings of this side of the House on the whole project of commercialisation and we will, in fact, be voting against this Bill, firstly, because we do not approve the manner in which the whole question of commercialisation has been conducted and I would concede that it is not relevant to a certain extent to the Bill before the House but, secondly, because we consider the Bill to be entirely inadequate because we do not get a picture of the situation as the Government envisages it will develop and the documents that have been put to us are thoroughly inadequate and I am surprised that with all the publicity that has attended the presentation of this Bill to the House there has been such little thought given to the preparation of it and such little information given to the House as to how it is proposed to run the commercialisation of the project and we can only assume from this that the Government itself is not yet clear as to how the operation will go. Mr Speaker, the way that Gibraltar Shiprepair Limited is to be set up in our view leaves a tremendous amount to be desired. It is no good the Financial and Development Secretary telling this House that the memorandum and Articles of Association have been prepared to enable the yard to carry out its function and that of course it will be subjected to Government policy as to what it can or it cannot do after saying that directors will be appointed who will have to be independent, have to run it as a business and put at risk the whole of the private sector which is what the memorandum of Association does. It gives Gibraltar Shiprepair Limited or purports to give Gibraltar Shiprepair Limited the widest possible powers for it to become the Falkland Islands Company of Gibraltar. That is what it does and the only thing that will prevent it occurring is the words of the Financial and Development Secretary and other Government Ministers who will assure the House it won't happen, it won't be this and it won't be the other. When I moved my motion in this House in March, 1983, about the possibility of commercialisation took place of creating there something that would in effect become the Falkland Islands Company of Gibraltar, we received assurances and we were told by the Financial and Development Secretary then, let us see what he said; "And the Shiprepair Company would be a private company under the Companies Act and as all companies under the Companies Act would have a memorandum

of Association and Articles of Association and it is for that reason that we asked ODA to appoint for us a lawyer specialising in maritime affairs so that we could have the best possible advice on drawing up the Memorandum and Articles of Association. In such a Memorandum it is normal to set out what is the main purpose of the company and the main purpose of the company will be shiprepair. We would have somebody specialising in maritime affairs so that we could have the best possible advice in drawing up the Memorandum and Articles of Association". Let me tell the Financial and Development Secretary that the Memorandum of Association that has been drawn up has been copied straight from a book, it could have been done by a student, I am saying this in general terms. A student would not make the mistakes that have been made in this Memorandum and I will point out two of them. When we copy something from a precedent, and it talks about the United Kingdom we usually substitute Gibraltar here but the expert must have forgotten it was to be used in Gibraltar. The obvious one is right at the end, at page 7: "It is hereby declared that the word company in this clause" - this is very usual, this is found everywhere - "except where used in reference to the company shall be deemed to include any partnership or other body of persons whether incorporated or not incorporated and whether domiciled in the United Kingdom or elsewhere". Usually we would put Gibraltar in there, 'in Gibraltar or elsewhere', after all it is a Gibraltar company, And then the promotion of Acts of Parliament, page 5(1) to obtain any provisional or other order or Ordinance or Charter or Privilege of Concession or Licence or Acts of Parliament or Municipality of this country". I am glad we have been elevated to the status of a country, Mr Speaker, we have breached the Treaty of Utrecht in the Memorandum of Association and I am sure our man in the Foreign Office hasn't read this carefully, obviously in Gibraltar we put an Ordinance of Gibraltar. There are others or there may not be but the objects of this company, Mr Speaker, have come out put together, of course, a certain amount of skill is required, from the Encyclopaedia of Forms and Precedents which is used by lawyers regularly to prepare a company. But if I may before going back to the Memorandum, if I may first of all and I hope in the reply we will be told who were these maritime advisers that were appointed and how much they were paid, I want to know what fees I should be charging for companies after that. If I may go from there to the Hon Mr Canepa's contribution in that debate, the Minister for Economic Development, he said: "And this proposed shiprepair company" - this is at page 62 of the Hansard report of March, 1983 - "And this proposed shiprepair company will be controlled by the Government or perhaps I should say would be controlled by the Government through the Memorandum and through the Articles of Association and the operator will carry out its activities in line with the Management Agreement. Now, Sir, the House will have an opportunity to discuss such a draft Memorandum and Articles of Association and in the Management Agreement if we do reach that later stage, at an appropriate time". And then the Chief Minister, page 74, and this is relevant to my comments on the Memorandum, when he said: "Whether it is possible or not we do not know but that is the way we should look at it and not as a substitute not only for the old or for the present Dockyard but for businesses which are running now and it

would be ridiculous for any Government to say that they are going to have a private company to substitute the private sector when, in fact, what we want to do is to encourage the private sector". I think we all want that, we want to encourage the private sector and we don't want the shiprepair company to have to depend for its survival and we fear it may well do so that is why we are expressing this concern here, to have to depend on its survival on doing a lot of activities which are not just of shiprepair. If one goes to the Memorandum of Association which sets out the objects, Mr Speaker, you will see that what this company can do is indeed very, very wide. The articles have, I don't know many letters there are in the alphabet, twenty-six, I now use (1), (2), (3) because then it is quite easy to find out how many of them, but anyway, here we go down to (z) and then it is (a)(a), (b)(b), so this one has got thirty-two objects, this company, Mr Speaker, and the objects allow the company, obviously, to do the business of repairing, fitting out, constructing or demolishing ships, tugs, lighters, barges and so on, and it can acquire ships, charter ships, yachts, pontoons and so forth, then it can take on lease and manage lands, well, that is necessary because it is going to take a lease of the thing and then it can build, construct, develop, factories, roads, railways, warehouses, depots, offices. structures and facilities of all kinds whether for the purposes of the company or for sale, letting, hire, or otherwise providing in return for any consideration from any company, firm and person. So it can do any buildings whether it wants it for itself or not, for sale, it can indulge in everything and then it can acquire copyright, concessions, licences, trade marks, designs, everything that you would expect in a company that is being drafted with wide objects but this is straight from a book, obviously. Let me tell the Hon Member that we all read the same books. I know we all do the same but this is a very different situation, Mr Speaker. I can do a company, for example, if I may use my friend here again, for Mr Loddio to run a butcher and in putting there that he can not only be a butcher but he can be a banker, he can be everything in the world but we are all very confident, well, we are not very confident, but we would hope that he would not become the Falkland Islands company of Gibraltar because we do not think that any individual business in Gibraltar, with one or two possible exceptions, could do that. But this company that is being formed could do that and that is where the Memorandum of Association, Mr Speaker, became so important and that is why so much stress was put on it by the Financial and Development Secretary in his contribution in March that they were going to have special maritime advisers and we had to be very careful what the Memorandum said. Well, this Memorandum, Mr Speaker, says everything. Take (g) at page 2 - "to carry on any other business of any nature whatsoever which may seem to the directors to be capable of being conveniently carried on", and then it can purchase or acquire any part of the business, property, liabilities and transactions of any company and it goes on and on. It is not necessary for me to read the whole of the objects clause of this company but one thing is certain, Mr Speaker, that the structure of the Memorandum enables the company if it should be the wish of its Board of Directors and the Government of the day is prepared to allow it to do it could be the Falkland Islands company of

Gibraltar. The Financial Secretary keeps on saying no but he is wrong; he is not a lawyer.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Will the Hon Member give way?

HON P J ISOLA:

Yes, I will give way.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, this is why I deliberately made emphasis in my speech about the structure of the company and the distinction between a privately owned company and a publicly owned or controlled company and if the Hon Member will check, the Falkland Islands Company is entirely privately owned, Gibraltar Shiprepair Limited would not be.

HON P J ISOLA:

Well, this is again, Mr Speaker, so much nonsense because we are considering an Ordinance which allows and says in what circumstances the Government can flog it and the Government can flog it, to put it mildly, Mr Speaker, on the certification of the Financial and Development Secretary and on a resolution of the House in which the Government has a majority so it can be flogged at any time and we are thinking precisely of a situation arising when that can happen and it is no use the Financial and Development Secretary telling this House that the Falkland Islands Company is privately owned and this is Government owned, I know that perfectly well, but what we are afraid of is the Government owning the whole of Gibraltar, if you like. Of course that could be a result, that the Government in order to keep a workforce going of 500 or 600 or 800 people, permits the private sector or large chunks of it to collapse because it is too embarrassing for them to have a company owned by them having to sack people and have redundancies and what we said and the whole purpose of the motion that I moved in March was precisely to ensure that that did not happen and there were sympathetic noises made on the Government benches and the Financial and Development Secretary was saying it is so important to get the right Memorandum. Well, I am saying that if it is so important to get the right Memorandum you have got the wrong Memorandum because the Memorandum that you have got enables the company to do precisely that which no one here wants so why have it in that shape?

HON ATTORNEY GENERAL:

If the Hon Member will give way. I am sure that he will appreciate, Mr Speaker, that there is a difference between the capacity of the company as set out in the Memorandum and the Articles of Association and the control of the company as also set out in the Articles but as set out as well in the Bill. I am sure the Member as a lawyer understands that.

HON P J ISOLA:

I do and I will be coming to the Articles, Mr Speaker, I am now talking of what the company can do and I know the Government can give directions and I think that if we are to discuss in this House a Gibraltar Shiprepair Limited Ordinance we should have all the parts of the puzzle before us. We should have (a) the conditions upon which the Gibraltar Government is going to lease to Gibraltar Shiprepair Limited all the premises in the Dockyard, we should have that, (b) we should have not just general ideas about the directors, we should know who are going to be the directors. Are Ministers to be excluded from being directors of this company. Well, we have got the Sand Quarry Company and the directors are all Ministers or one of them is the Chairman. Will we have Ministers? These are the important things that people should know and the other important thing is we have got the Ordinance, we should also have the Management Agreement before us otherwise what are we being asked to vote for? We are being asked to vote for a Memorandum of Association that allows the Shiprepair Company to do almost anything it wishes to do. We have some general words as to the directors, the all-important people. We are told it is going to be directed according to Government policy, we are not told what the Government policy is and we are brought an Ordinance which I don't know what it is meant to do. It is meant to protect who, the people of Gibraltar from what? From the Government selling the shares without a resolution of the House where the Government anyway has the majority and can do it tomorrow? What I would like to see, Mr Speaker, what I would have liked to have seen but, of course, it is a matter entirely for the Government because they are going it alone on this one, on commercialisation, what should have been here is an Ordinance that created the Gibraltar Shiprepair Company by Ordinance in the same way as the Gibraltar Broadcasting Corporation has been created by Ordinance and it should state very clearly what can and what cannot be done and if the Shiprepair Company wants to go into business outside that Dockyard and wants to tender for some building within Gibraltar because it has got a few spare carpenters and it would like to keep them in employment, then they have to come to the House and say "We are going to extend our activity". That is the way to protect local industry because it would give local business, the private sector, an opportunity with a Bill coming before the House to make representation not just to the Government but to the Opposition and not to allow the thing to occur. Mr Speaker, the actual Memorandum of Association, I am sorry to tell the House, does nothing to protect anybody from anything and of course it can be changed. The only provision in the Gibraltar Shiprepair Bill, as I see it, is that it prohibits a transfer of shares without a resolution of the House, that is all. It does not prohibit the Memorandum being changed, it doesn't prohibit the changing of the Memorandum without coming to the House but, anyway, I assure you, Mr Speaker, we don't want that privilege because the Memorandum has everything and I cannot see them wanting to change the Memorandum unless they want to open a restaurant or something or want to do something else but it doesn't stop them changing the Memorandum and it doesn't stop them changing the Articles of Association which is meant to be also protective. They can be changed at any time

without reference to this House and we may not even get to know that the changes have taken place unless we have somebody sitting in the companies registry seeing every resolution that comes in or we look at the Gazette and make sure when there is a change that we go there. Where is this control by the House? Now, Mr Speaker, the question of the selling of shares and the disposing of shares in the company. If the company wants to dispose of shares the Financial and Development Secretary asks the Board of Directors to estimate the value of the shares. Why that should be in the Ordinance I don't quite see because the Board of Directors are being paid by the Financial and Development Secretary out of public funds, the Government is the owner, the Government is the one that is selling but still, alright, the Ordinance says they have to ask the Board of Directors to estimate the value, he can do that with a little memo, there is no need for an Ordinance for that, and then the Financial and Development Secretary certifies the consideration for which the share may be disposed of. Why is that required, Mr Speaker, when this is all in house? The Board of Directors, the Financial and Development Secretary, the Government are the owners isn't this what will be done anyway? If the Government wanted to sell the Sand Quarry Company tomorrow, the ownership, well the Financial Secretary, Council of Ministers "Let's sell, what is the value? So and so, that's it". Why does it have to come into the Ordinance? Is the Government afraid that the Financial and Development Secretary would sign a share transfer without telling anybody about it and sell to Applodore all the shares? I don't know whether that follows the duties and obligations of the Financial and Development Secretary under the Constitution that he can dispose of public assets, that is indeed a revelation, that he can dispose of public assets without reference to anybody then I think it is the Constitution or the Finance Ordinance or whatever Bill controls this has to be changed. And then, Mr Speaker, since the Government is the interested party and they are selling the shares they can decide what the value should be. Surely, if there is going to be some protection, if that is what it is intended to be by this section, then surely the person who must certify the value of those shares is an independent person not the Financial and Development Secretary. It should surely be in the Government service the Principal Auditor, he should be the man who certifies the value not the Financial and Development Secretary who is intimately involved in the whole operation himself. The other question I would like to ask the Attorney General, by the way, is how does the Government of Gibraltar hold anything? Is it in the name of the Governor? Is the return of allotments going to be made in the Registry of Companies when it says name of allottee are you going to have underneath the Government of Gibraltar? I would be interested to know because I don't think it exists as an entity. I think the Government of Gibraltar under the Constitution is the Governor, so I don't know whether Sir David Williams will welcome being the shareholder of the company but I think that is a matter, that is just a small point, but I think it is a matter they ought to look at because I know agreements done by the Government of Gibraltar have always been signed by the Financial and Development Secretary or things like that but when you are actually holding land or holding anything I think it is either the Governor or I don't know.

HON CHIEF MINISTER:

The holding of land is defined in the Constitution as entitling the Governor to give title for over 21 years.

HON P J ISOLA:

The Governor is the one who gives the title that is why when it comes to the shares who is actually going to hold it because I don't think the Government of Gibraltar, as such, is a legal entity.

HON ATTORNEY GENERAL:

With respect, I think it is, Mr Speaker.

HON P J ISOLA:

Well, alright, if the Hon and Learned Attorney General says it he must be right but I would like him to check it out. Mr Speaker, the Articles of Association of the company which again, with respect to these eminent maritime advisers, follows a well known pattern following table A of the Companies Act in England, not the Gibraltar one but the English Companies Act, and there is that last bit at page 24 which has the overriding provision under which we are told that "whilst the Government of Gibraltar shall be the holder of not less than 90% of the share capital then the parent may at any time appoint any person to be a director or remove from office", and so forth. I think that part is again not unusual if you have a company and you have what we call a governing director we vest in him the power to be able to remove, appoint or take away directors. There is nothing here that is protective or looks after the interest of all those people and all those interests that we would have liked to have seen, in other words, it is all entirely flexible. Maybe that is how the Government wants it, I am not suggesting that it should not be so. Maybe that is how the Government wants it but as far as interested parties, let us put it that way, private sector as an interested party, the public interest in an efficient shipholding company or anything else is concerned, there is no special protection. The only protection that exists is that if the Government wants to sell the shares of the company then it has to come to the House. That, as I see it, is the only protection or the only thing that differentiates the Gibraltar Shiprepair Limited from any other normal private company in existence in Gibraltar, in England or elsewhere and the Board of Directors, and here is something the Attorney General may be interested to mull over, that the Board of Directors of the company will be able to sell off assets of the company. They won't be able to sell the shares of the company but there is nothing to stop them selling the assets of the company without prior reference to the House of Assembly and after what I have heard about the Financial and Development Secretary being able to sign transfers of shares but fortunately he is stopped by this Bill, I would like to see provision in this Bill prohibiting disposal of any assets of the Gibraltar Shiprepair Company without the consent of this House and I feel, Mr Speaker, that the Government lease or the Government

proposed lease to Gibraltar Shiprepair Limited should be here with us at the same time as this Bill is because in the lease at least, if the Government is going to allow the Memorandum and Articles to be as wide as they are and to give the directors whoever they may be, we don't know who they are we know there is going to be one man from ODA and that is about all we do know, then at least in the lease to Government a public document, it should state what can and what cannot be done by this company, the user of the land, for example, which the Government is so fond of putting clauses in their leases and probably quite rightly so as to what can be done or cannot be done by the lessee. Alright, let us see it there what can and what cannot be done. I do not think it is any consolation to anybody to be told: "But don't worry, the Government as the elected Government of the people will ensure that all these interests are protected". But there are so many things, Mr Speaker, that are done in a hurry, there are so many things that people can ask in a particular way and it can be done, isn't it much better that there should be a whole list of things that cannot be done and then if they have to be done let it be brought to the House and discussed because, Mr Speaker, if as the Government believes, the commercial shiprepair operation is of such consequence to Gibraltar as they say and will be of such importance to the economy of Gibraltar, surely if it is going to be like that then obviously it is going to have a lot of side effects in that economy both good and bad. The good nobody complains about, the bad everybody will complain about and if things do not go well then it is essential that if the operation fails because it is not in effect a viable operation, it should not be kept floating at the expense of employment in the private sector at the expense of other people. Mr Speaker, we are disappointed with what has been brought to the House because the impression we have got, and I am leaving viability out completely here, the impression we have got time and time again from the Government benches on commercialisation was always with the proviso 'should we find it to be a viable proposition etc, etc', the impression that this side of the House has got and I think everybody else has got is that the setting up of the operation having regard to its size and so forth would be done with great care to ensure that it came on a proper footing and, Mr Speaker, what has been produced to this House today obviously it is not all, we have been told it is not all, but what has been produced to this House today for our approval is something which quite independent of our views on the commercial viability of the Dockyard, quite independent from our views on that, we would feel bound to reject as being inadequate.

HON CHIEF MINISTER:

Mr Speaker, I think that most of the first part of the Leader of the Opposition's intervention was completely eyewash. He knows very well as an experienced practitioner that when you draft a Memorandum and Articles you cover everything possible but that that in itself does not entitle the company to do everything that is in the Memorandum if the Articles of Association so rule and if, of course, the people who manage it do not want to. On the one hand he says that what is the use

of bringing matters to the House if it is carried out by a majority and on the other hand he wants everything to be brought here to be able to have, perhaps, interventions on the nature that he has made today which, I am sorry to say, is not as helpful as one would have expected because it is purely a play to the gallery, little as it is, but for the record and for the media to talk about all the things that the Memorandum and Articles can do, of course it is, but perhaps what he has said in this House is of no consequence if it is not said by the Hon Member because the Financial and Development Secretary made very clear when he said: "When examining the Memorandum of Association, Members will note that the objects of the company are clearly and exhaustively defined as is established practice in company law. The Government considers that the Memorandum should be fairly wide in the interests of commercial efficacy and that the control of the company should be exercised via the Articles and the policy directions which will be given to the Board of that company". There is the statement of policy.

HON P J ISOLA:

Is the Chief Minister referring to what has been said today?

HON CHIEF MINISTER:

Yes, of course, what he said a few minutes ago but anybody listening to the Leader of the Opposition would think that he hasn't said a word because this is exactly the opposite of what he is accusing the Government of not doing. The other thing of course is that he is a master at quoting what suits him of Hansard and leaving out the other thing. When he quoted about what the Financial and Development Secretary said about the Articles of Association at that debate he said that the Financial Secretary had said: "In such a Memorandum it is normal to set out what is the main purpose of the company and the main purpose of the company will be shiprepair". He stopped there, he didn't say any more of what the Financial Secretary had said. But the Financial Secretary then had gone on to say: "But in order to carry out that business it must be able to do other things, it must be able to employ people, it must be able to borrow money, lend money, take on work, enter into contracts and various other things. There is a pattern running over hundreds of years in the United Kingdom of the ancillary requirements for the carrying on of a shiprepair company and it is those ancillary requirements that we are looking at in our discussions and certainly one would not expect a shiprepair company to go into some of the activities which were mentioned by the Hon and Learned Leader of the Opposition". That is what he said then not just the little bit that he has quoted now and that is exactly what we propose to do. There may well be areas of the Bill which might be improved, I don't know, but certainly it cannot be improved if the attitude is that the whole thing is a sham, that the whole thing is a farce, that the Government is not giving the Opposition the opportunity of making a show of it every time anything is going to happen in the Dockyard, if that is so then of course it is no use taking any notice seriously of what the Leader of the Opposition is saying. On the other hand he says, well, the Government can dispose of

the whole thing, can flog it around and then on the other hand the operating company is accused of not wanting to take any equity in the company so it cannot be both ways. It is true that the company is a private company and that the management will be run by a Board of Directors appointed by the Government which will have a considerable amount of control. That is a fact, that is how it is presented, it is not pretended to be presented in any other way and God forbid that any company should be run on the basis of what is discussed here because there would never by any agreement and the company couldn't run. That I think is all that the Hon Leader of the Opposition has said that warrants any reply. The Memorandum and Articles whether the people who have copied it have forgotten to put the word Gibraltar in or not we all do that and he knows very well that when you copy you devote your time to the essential of what is important. And what is important in this matter is the Articles of Association and the set-up of the company. We do not tell you who the directors are going to be because we don't know who they are going to be yet and again perhaps what the Financial and Development Secretary has said has been ignored because he said it very clearly: "I would now like to turn to the question of the Board of Directors of Gibraltar Shiprepair Limited. The Articles of Association provide that the directors shall be not less than three and not more than ten in number. The directors shall be appointed in writing by the subscribers to the Memorandum of Association, that is, the Gibraltar Government. It is proposed that initially there should be a Board of seven. There would be a Chairman who must have wide and recent experience as a company director, preferably in shiprepair or in an industrial commercial company". Obviously we haven't got anybody here to do that and we will have to have somebody in. Like in other disciplines if we haven't got our own knowhow at the start we will have to rely on people from abroad. "The other directors should include persons with suitable knowledge and background on finance, labour relations and commercial shiprepairing. One member will be a representative of Her Majesty's Government, possibly a senior officer from the ODA. It is proposed to include some representation on the Board from the manager of the yard. It is hoped to have as much Gibraltar representation

HON MAJOR R J PELIZA:

Mr Speaker, on a point of order. Isn't he reading everything that the Financial Secretary has read?

HON CHIEF MINISTER:

If things that are said by the Financial Secretary got into some people's thick heads I wouldn't have to repeat it. You never listen you are only talking. I think my Friend Mr Canepa has mentioned this several times. We have listened to an exposé of la prima donna on the other side about the Memorandum and Articles and we haven't said a word. Now we are talking

HON MAJOR R J PELIZA:

The Chief Minister thinks

HON CHIEF MINISTER:

Shut up. We are talking seriously about the matter now and all we get is grins and you don't make progress, it really belittles this House if Members opposite when they don't like what they are listening just giggle with each other. My Friend has had occasion to mention that and I am compelled to refer to these matters because the Leader of the Opposition has spoken as if not a word of all these matters has been said by the presentation of the Financial and Development Secretary and this House is ruled by what is said and what is said is what people have to take into account when they reply otherwise we are like in the Spanish Parliament where you write your speech at home, you go up to the podium and whatever the other fellow has said you read your speech, you don't debate. Here, fortunately, we debate and if we debate and the Financial Secretary has taken the trouble to make a presentation of the facts in a proper way and they are completely ignored, I am more than justified in reminding Members of what he said. I will just finish with this one and that is where he said: "There are likely to be problems in finding local Gibraltar businessmen with the necessary expertise who are not involved in activities or have interests which could cause a conflict of loyalties or a direct confrontation of interests". He is saying quite clearly that there is the expertise in shipping here, of course there is, Gibraltar has got a very big tradition of expertise in shipping, the difficulty in getting somebody here who is not himself interested in the shipping business in order not to have any conflict of loyalties and therefore he went on to say that some of the directors will initially be appointed from abroad. The Gibraltar Shiprepair Limited is going to be a private company controlled by the Government and in the end answerable to this House because the Government will be answerable to this House for any directions that is given to the Board by the Government, the Government of the day whichever that may be, and that is how it is normally done. It is not, and I am sure that it is certainly not in the nationalised industries in England that every time they want to have an amendment to the Memorandum and Articles of Association they have to go to the House of Commons to get the consent of the Opposition or a debate on it. I think that that is just another example of the extent to which the Opposition show their frustration by wanting to have everything to say in matters which are purely the function of the Government as is the case with this private company.

HON P J ISOLA:

If the Hon Chief Minister would give way. Aren't I right in thinking that the nationalised industries in England are in fact set up by statute and not as a private company?

HON CHIEF MINISTER:

Yes, and we are setting up the company by a Bill which is being discussed at this moment in this House.

HON MAJOR R J PELIZA:

Mr Speaker, I think this must have been one of the worst performances of the Chief Minister possibly because he hasn't written his script before he came in and he had to borrow that of the Financial and Development Secretary. Perhaps the Administrative Secretary is too busy coordinating tourism now to prepare those speeches. But be that as it may, I was extremely surprised that what I thought was a very reasoned contribution from my Hon Friend the Leader of the Opposition should have been dealt with so frivolously by the Chief Minister. I think that perhaps the arguments that my Hon Friend put forward were so strong and overpowering that the Chief Minister literally could only make a fool of himself by the way he answered them and I think that it was Shakespeare who said: "A tale from a fool full of fury and sound and signifying nothing", or words to that effect.

HON J. BOSSANO:

The Hon Member is not making himself responsible for that quotation.

HON A J CANEPA:

Mr Speaker, is Shakespeare to be misquoted in such a horrible manner by our Friend here quoting from the play 'Mac Peliza', is that the play?

HON MAJOR R J PELIZA:

I didn't hear what he said but perhaps it is not worth hearing, Mr Speaker. Anyway, let us carry on, Mr Speaker, with the business of the House which is whether we should have, and this is really the crux of the matter which my Hon Friend said, whether we should have a public company with unlimited powers to encroach on any business in Gibraltar and this is what he was trying to put forward and this has not been answered by the Government, or whether we should have a company which is there by statute as my Friend says, similar you might say to the Gibraltar Broadcasting Corporation with a degree of independence but with limitations as to its activities, this is what we are discussing here, Mr Speaker, and we have not heard anything from the Government either to support one or oppose the other one or produce a solid argument as to why it should be the way it is. Mr Speaker, I think my Hon Friend quoted from the Financial and Development Secretary, he asked one question. Who are the solicitors? Who are the experts that came over to prepare this Bill who did not more than copy what he said is produced by a student, who were they? We haven't had an answer. How much was paid for this or is it that what the Financial and Development Secretary said he has going to do has not been done. These are the sort of questions that I would have thought the Chief Minister would have liked to clear but he didn't. Instead of that, Mr Speaker, he just went off at a tangent attacking the Hon Leader of the Opposition saying that he was trying to make political capital of this. I cannot understand why he thinks that there is political capital in just opposing what is just a limited company

and suggesting that it should be another type of company as described by my Hon Friend. These are the questions that should have been answered in a reasonable way and the Chief Minister shows differently. For the same reasons that my Hon Friend says here, it is not just because we object to the way the company is being set up but perhaps because we are as convinced today as we were before and especially perhaps because we have been convinced by the projections and presentations made by the consultants on television, that the company is not going to be viable, in fact, perhaps because the only people who are prepared to put money into it is the Government and it is a sure sign, Mr Speaker

MR SPEAKER:

Order, we are not going to talk about the viability, we are going to talk about the constitution of the company.

HON MAJOR R J PELIZA:

Yes, but I have suggested, Mr Speaker, that because it is a limited company, it is a company that we I think in this House should say whether it is going to make money or lose money, cost the Government any money, and I think, Mr Speaker, that a sure sign that it is probably going to cost the Government a lot of money is the fact that only the Government is prepared to put money into it so far and we know that the operators are not prepared to put a penny into it and it is a sure sign of losses.

HON CHIEF MINISTER:

It is the British Government that is putting up the money.

HON MAJOR R J PELIZA:

Yes, I know, even worse, everything that the British Government has put money into so far has lost money, Mr Speaker, and they are trying to get out of it as quickly as possible so that perhaps is a sure sign that this in itself may well cost money to the Gibraltar Government in the long run. So, Mr Speaker, because apart from the set-up of the company, because we do not think that the operation is going to be viable and there is no proof so far and in fact the opposite is the impression we get from what we have seen, we cannot vote in favour of this Bill, we have to vote against.

HON ATTORNEY GENERAL:

Mr Speaker, I am bound to say I thought the Hon and Learned Leader of the Opposition would have been more interested in the principles than in the details of the proposals at this stage and as the Hon and Gallant Major Peliza has said, what we are concerned with, what the issue is here is what sort of a body should be adopted or set up to run the Dockyard's commercial programme and the choice is really between two types of body, there are two ways of doing this, I think it is fair to say, in public matters. You can either have what is known as a statutory corporation and that is what the Hon and Learned Leader of the Opposition was

referring to and evidently prefers which is a corporation set up entirely by its own statute or you can have an ordinary commercial company subject to a greater or lesser degree of control from the outside. Mr Speaker, may I say I think it is fundamentally wrong in relation to this operation to use the device of a statutory corporation and customarily statutory corporations are used to establish public bodies, bodies of a public nature which this undoubtedly is, but of a non-trading nature. There are some that do establish trading concerns, I would accept that, but customarily they are used to establish non-trading bodies whereas there is a great advantage in having a commercial company to establish public bodies of a trading nature because it is far better constituted towards commercial operations, it is much more flexible, but flexible on a particular way. When I say that, Mr Speaker, what I mean is that so far as capital structure is concerned, so far as financing is concerned, so far as equity participation, if it were ever to arise, is concerned, a commercial company is much, much better suited to this type of operation and I think that is the issue of principle on this Bill, Mr Speaker, which we should go for and I believe it is correct to go for the structure of the commercial company. The other general matter of principle I would like to make, Mr Speaker, and I must say I am sure that the Hon and Learned Leader of the Opposition fully appreciates this, the other general point I would like to make is that one must bear in mind that the controls which the Government will exercise in the public interest over this body are a separate issue from, if you like, the constitutional documents that give the body its capacity. The Memorandum of Association is, of course, a standard company document, every commercial company has one. It is in essence the document which gives the company capacity to do the various things it wishes to do and it is always drawn and I am sure every commercial or professional Member on the other side of the House knows it is always drawn as broadly as possible so that if the company wants to do something bona fide in the public interest it doesn't find that the whole purpose of thwarted because it simply lacks the capacity to do it.

HON P J ISOLA:

If the Hon and Learned Attorney General will give way one second. I accept that, it is a common standard form of Memorandum but if that is the case why did Government Ministers and the Financial Secretary state how important it was to get the right Memorandum when on his own admission he is now saying it is just the standard form to enable it to do a commercial operation? We have to a certain extent, I am sure inadvertently, possibly, been misled in this regard, I am sure he will agree.

HON ATTORNEY GENERAL:

I think there are two different things being talked about here, Mr Speaker. I think what the Government has been saying is that it is not the Government's intention to have a company, if I can use the expression, running amok in the private sector, that is not the intention. It has always been the consciousness of

Government to have a company which does shiprepair yard work in the traditional sense but what I am talking about is from a lawyer's point of view, if you like, but from a lawyer's point of view to say that because the objects are widely drawn this is somehow being contravened is not so, they have got to be widely drawn within the parameters, of course, of shipyard activity. I can see I haven't persuaded, Mr Speaker, but nevertheless I believe that is a proper distinction to make. And the Articles, of course, every company has Articles of Association which are intended as everyone knows to control and general management and those Articles themselves can provide the Government so long as it remains the majority shareholder, with control because it can appoint and remove directors by virtue of being the majority shareholder.

HON MAJOR R J PELIZA:

Could the Attorney General explain how those Articles can be changed, is it that you just go to Court and have it changed?

HON ATTORNEY GENERAL:

Mr Speaker, the Articles can be changed more easily than the objects. I must confess that the House has the advantage of me, what I am used to is objects being changed by a certain resolution of the shareholders approved by the Court.

MR SPEAKER:

You cannot change the objects of the company without the consent of the Court which is the Memorandum, in other words. The Articles can be changed by special resolution without reference to anyone outside the structure of the company. The Memorandum, which are the objects, cannot be changed unless consent is obtained from the Court.

HON MAJOR R J PELIZA:

By consent, you might say?

MR SPEAKER:

No. by the shareholders.

HON ATTORNEY GENERAL:

By a certain percentage of the shareholders. It certainly cannot be changed against the wishes of the majority of shareholders and in real terms in a big company I think a controlling interest would be sufficient which is not necessarily as much as 50% per cent. The other way in which the Government as a shareholder can control this company before I come on to the whole question of the Bill, the other way in which it can control it of course is in the terms of appointment of the directors and although it is unusual commercially, I have been informed and I have reason to believe, although it is unusual commercially it would be possible to write into the terms of appointment of the directors as a

requirement that they must follow certain policy directives but that is a fairly sensitive area because directors on the one hand are expected to exercise their own professional judgement and this is a sensitive area. I think, Mr Speaker, that the Financial and Development Secretary may refer back to this point but it does seem to me that one very important aspect of this whole arrangement which nobody has commented on yet is the choice of the Board in particular the choice of the Chairman and the relationship between the Government, who I imagine will be through the Financial and Development Secretary, the Chairman and the Manager and I think that will be a critical relationship in the whole structure. But having emphasised the reasons why I think that really the only viable choice is to have a commercial company, I would like to come on and say that the reason that this Bill is being promoted is that of course it is recognised that we are not just talking about an ordinary company, we are talking about a major public asset and so in certain respects while preserving the integrity and the convenience and the efficacy of a commercial company, in certain respects so long as the Government remains the majority shareholder this Bill will lay down statutory fingers, if you like, that reach in and say so long as it is essentially a public enterprise there are certain additional requirements but the way it has been approached is not to swamp the commercial entity with these outside controls but to select them discriminately and the three major propositions or principles in this Bill have already been outlined by the Hon Financial and Development Secretary. They also basically involved accountability to the Government and back through the Government, of course, to the House of Assembly and I won't go over again the three areas in which this is done but there is a question of balance, in my view, as to how many controls one should put in from the outside bearing in mind that within the company arrangements itself you can have controls anyway. I think what we are talking about in that sense is not so much a matter of principle but a matter of judgement as to how far one goes. Mr Speaker, that is really what I wanted to speak to at this stage on this Bill, the choice or the distinction between a statutory corporation and a commercial company and the reasons why in principle the Government has chosen and has proposed a commercial company. I think at this stage those are the only points I wish to make.

HON J BOSSANO:

Mr Speaker, to some extent it is difficult to decide whether to bother to speak at all on the general principles and merits of the Bill which in all probability will never be translated into reality but given that this is one more opportunity to bring to the notice of the public, because I do not think Members of the House are in any doubt at all about the serious mistake that is being made in going ahead with this venture, given that that is such an opportunity I will talk, if you will allow me the freedom to do so, Mr Speaker, in looking at the principles of the Bill, at the most fundamental principle of the lot which is whether the Gibraltar Shiprepair Limited should exist at all because if the Gibraltar Shiprepair Limited does not exist then the Ordinance about transferring shares and controlling shares does not arise.

MR SPEAKER:

To the extent that we will not repeat ourself to all that has been said in this House to date on the viability, on the alternatives and such like I will most certainly allow you to say anything which is relevant but we are not going to have repetition on everything that has been said already in this House on the commercialisation of the Dockyard.

HON J BOSSANO:

I will try and concentrate on revealing the parts of the secret reports I haven't revealed to date and then I won't be repeating myself. Mr Speaker, the theoretical power of the House to block any sale of shares in the shiprepair company is, I think, as the Hon and Learned Member of the Opposition has said a meaningless one because in fact if there was a majority on the Government side and the Government wanted to sell the shares then by bringing it to the House the only thing that would happen, presumably, would be that the matter would be debated before it happens but it would still happen. I imagine if the shares were being transferred without having to be brought to the House it would still be public knowledge because as I understand it is is not afield with which I am very familiar but I understand that when share transfers take place it becomes public knowledge anyway because there has to be a return so it couldn't be done in secret anyway even if there wasn't a Bill requiring it to be brought to the House,

MR SPEAKER:

It would only be seen when an annual return is filed because there are no requirements to file any notice of transfer. I am speaking on knowledge of law and nothing else.

HON J BOSSANO:

So, Mr Speaker, the House in fact is not being asked to pass judgement on the wisdom of having the Gibraltar Shiprepair Limited, that is already taken for granted and assumed to have been accepted and I do not think that it is true that it has been accepted by this House and I think it is even less true that the Government has defended to the satisfaction of the House the original decision which runs contrary to the statements that they have made previously. I would like to remind the House of what the Minister for Economic Development said a year ago. When the consultants selected Appledore as the preferred operator, the Minister for Economic Development told the House that "it was not for the Gibraltar Government to take decisions or make the running on the future of the Dockyard. Her Majesty's Government had chosen to close the Dockyard and had undertaken to find an alternative way to support the economy. It was largely for that Government, that is, the UK Government, to evaluate the viability of commercialisation and agree the necessary funds and facilities to achieve the desired end". Are we to take it, Mr Speaker, then that it is a Gibraltar Government desire to have a shiprepair company or a British Government desire to have a

shiprepair company, that it is the Government of Gibraltar that has been convinced and has evaluated the viability of commercialisation contrary to what the Minister for Economic Development and Trade told the House a year ago was the policy then of the Government of Gibraltar because in fact if that is the case then it should be the Government in the United Kingdom that should be defending a decision which can be demonstrated to be indefensible on the basis of the projections that are being made for the future. If on the other hand it is the Government of Gibraltar as has been suggested, I understand, in a letter received by the Hon and Learned Leader of the Opposition suggesting that it was the Government of Gibraltar that wanted commercialisation to go ahead and that the British Government was not in fact forcing it on the Government of Gibraltar so it wasn't their initial decision they had agreed to go along with the Gibraltar Government's desire in this and in fact I think to some extent corroborated, if I may say so, by some statements that have been made by the Government about the fact that Treasury advice was in favour of supporting the economy by grants in aid rather than by setting up a commercial venture. If that is the case then, in fact, contrary to what was said a year ago the Government has decided itself to assume a responsibility which it has been incapable of defending, it has left it to consultants and to other people to defend but it has been incapable of defending why and on what basis it has this optimism about the possibility of success of the Gibraltar Shiprepair Company and if the Gibraltar Shiprepair Company stands no chance of success at all then there is no need for safeguards about buying shares or selling shares, Mr Speaker, they won't be able to give them away. Perhaps the Government may take an opportunity to say why it is that having obtained the advice of Mr Casey, and I would ask them that they should consider publishing the conclusions of the report which contain absolutely no information of any commercial nature at all, the seven conclusions on the front page which say that the proposals are over optimistic and unrealistic with little prospect of success and that it is unsafe to rely on shiprepairing to underpin Gibraltar's economy, let them publish those seven conclusions on page 1 which make no reference to figures, to details or to commercial information that would be of any use to anybody and explain why it is or what has happened since that report to make Mr Casey change his mind or to make the Government change its mind about the stand they took before. Perhaps they can explain what it is that has happened since the report that has not been made available to the House to make Mr Don Wilkes now be willing to put his money in it when he wasn't a year ago because that might change the attitude of the House of Assembly in their opposition to this Bill if there is all this far more optimistic information available which has changed the minds of so many other people which we haven't seen and therefore has not changed our minds. I also think that the Government should say since according to the Memorandums they are the parent of this ill-begotten child of theirs to what extent do they hold themselves responsible for all their offspring who are going to be employed in the shiprepair company, as parent? Will the Government give the Manager of the yard or the Board of Directors complete freedom to impose whatever working conditions they see fit in the interest of commercial efficiency that the Government as a Govern-

ment feel it is necessary to safeguard in terms of the treatment of employees or is the Government completely uninterested in the way the workers are treated notwithstanding the fact that it is a parent company because I can tell the Government that it is unusual, I think, in a limited company to find that the parent is the Government but in any other set-up certainly when there is a dispute between the workforce and the employer and the employer happens to be a subsidiary of another company, it is not unusual for the dispute to be extended to the parent and then they might wish they could get rid of all the shares without having to come to the House of Assembly, Mr Speaker, and give somebody else the joy of parenthood. I think it is also important, Mr Speaker, that the House should be told, since the step has now been taken, this is really a significant moment, I think, in the whole history of this sad issue in that it is technically, I suppose, the final seal of approval of the House of Assembly on the issue. The seal of approval that will be put by a Government majority on a company which is due to start operating on the 1st January, 1985, and who will be owned then we don't know by whom because, of course, we don't know who is going to be the Government in January, 1985, and obviously since the company is due to get a lease on assets which presumably will be transferred to the Gibraltar Government in December, 1984, because before December, 1984, the assets must remain in MOD hands if they are going to fulfil the agreement in the package to keep the Dockyard functioning until December, 1984, and repairing ships then, presumably, it is only when they stop repairing ships that they will transfer the land to the Government and then the Government will lease it to the shiprepair company and then whoever is in fact then in Government will be the owner of this £1,000 worth of shares. But given that situation can they tell the House whether all the conditions that they have said would have to be fulfilled before the step was taken have been fulfilled. They talked about the consultants going into company formation, whether that is what we have now, and that is first on the list. On the statement that came out at the time that Messrs Appledore were announced to an expectant audience as the salvation for Gibraltar's economic future and having been selected, there was an answer to a question by Mr McQuarrie who was behaving himself much better in those days than he is now, I might add, an answer to question by Mr McQuarrie and a statement made in the Commons by the Minister was that there would be discussions on a range of subjects such as company formation, finance, facilities and assets, employment levels, wage structure, conditions of service and market analysis. I know that company formation is what we are talking about now and that is first on the list. I imagine it is purely coincidental that it heads the list but is one to assume that all the other things have now been done and that in fact company formation is the last item and having done that item the rest of it is all now signed, sealed and delivered and the company is ready to steam ahead? I think there are questions that it would be useful for the House to have clarified simply to try and understand how it is the Government is bringing to the House a piece of legislation when all the evidence is that the Gibraltar Shiprepair Company will not take over the Naval yard and will not operate and there will not be a commercial Dockyard. So perhaps, Mr Speaker, on that note I can sit down and wait expectantly for all the answers.

HON A J CANEPA:

Mr Speaker, there is only one point that I wish to deal with on the Government side because the other points have been dealt with by the Financial and Development Secretary and no doubt also in his right to reply and that is the point which has been introduced into the debate by the Hon Mr Bossano regarding the parentage or otherwise of both commercialisation and of this Bill. It is really in an effort to set the record right so that there should be no doubt about exactly who is responsible for commercialisation. I am not going to be equivocal about it, I am going to give it as is my wont, as is my custom, straight from the shoulder. The Government did not particularly want commercialisation. The Government would far have preferred that the Naval Dockyard should have continued as at present or else the alternative which it could readily espouse and which was proposed by the Gibraltar Trades Council whereby ownership and control of the yard would remain in the hands of the Navy but there would be a far greater element of commercial work in order to ensure greater flexibility and viability by the yard. If we didn't want the yard to close we didn't particularly want or desire commercialisation but the British Government announced that the yard was going to close and they maintained that position and in spite of representations at all levels they stuck to that and they had a commitment to provide an alternative. The Treasury view in the United Kingdom it became clear at one stage, I would say at the beginning of this year, there was a view amongst the Treasury probably because by then it was becoming obvious that the Bill for commercialisation, purely in financial terms, was considered by the Treasury to be fairly hefty, there was therefore the view that grants in aid could be a cheaper, a less expensive alternative for the British Government in the discharge of their responsibilities about the economy of Gibraltar. As I say, this was a view in the Treasury and grant-in-aid was viewed, I think, by the Treasury purely in financial terms and they did not take other considerations into account. I think it was for the Secretary of State for Foreign Affairs and ultimately, perhaps, even the Cabinet itself to take other considerations into account, other considerations of a constitutional and political nature. The fact, for instance, that we had made it clear that we would not hold office in a situation

MR SPEAKER:

I am afraid that we are digressing from the question before the House. I have been very strict with every single Member who has spoken including Mr Bossano and I think in fairness to the House you are one of the last speakers.

HON A J CANEPA:

I am only going to speak about this point, Mr Speaker, but I think that if you allow the Hon Mr Bossano to state that the Hon the Leader of the Opposition had a letter in his possession in which it is stated that it was the Gibraltar Government that had asked and wants commercialisation, that being the crucial issue which it is

MR SPEAKER:

With respect, I have only stopped you at this particular stage when you are bringing in matters which are beyond the orbit of the debate.

HON A J CANEPA:

Well, this is what I am coming to, Mr Speaker, that because there were other considerations the British Government took the view that if the Gibraltar Government wished to ask for commercialisation, they, the British Government, would be prepared to meet the consequences of that and when we considered all the reports, Mr Speaker, the view that we took was that commercialisation on its own would not significantly plug the gap in the economy that would be left by closure of the Naval yard and it is no secret, Mr Speaker, that it was in the context of a package involving many other matters which I won't go into, that the Gibraltar Government accepted that we would go ahead with commercialisation. The result of that package, the result of that agreement reached between the Gibraltar Government and the British Government solemnly in an agreement which was signed in Carlton Gardens, to which I was a witness, between the Secretary of State and the Chief Minister, the result of that agreement solemnly entered into by the two Governments is the Bill which is before the House today and it is introduced in the House today because the Gibraltar Shiprepair Limited is going to be set up in Gibraltar. Where does the parentage lie? I don't know, but you cannot expect the British Government to come and introduce a Bill here in the House or one in the House of Commons which is going to apply to Gibraltar, it is purely a question of mechanics but the introduction of the Bill here this afternoon is the direct consequence of an agreement entered into by both Governments last July.

The House recessed at 5.10 pm.

The House resumed at 5.50 pm.

MR SPEAKER:

Are there any other contributors to the Second Reading of the Bill?

HON A J HAYNES:

Mr Speaker, I think that the last two or three speakers have forgotten the purpose of the debate before us which is the Companies Ordinance Bill for a Gibraltar Shiprepair Limited. The Opposition have brought to the fore an issue relating to this matter which has not been answered from the Government side and if I perhaps restate the issue perhaps we will get an answer. We are asked as a legislative body, Mr Speaker, to decide whether we want a company with a Memorandum of Association and a Memorandum of Articles or as proposed by the Opposition a corporation defined by statute similar to the Gibraltar Broadcasting Corporation. Our concern, Mr Speaker, is that the future company, Gibraltar Shiprepair Limited, should not be

either hampered or uncontrolled and certainly, Mr Speaker, the Memorandum of Association which are the objects of the company, the objects for which the company is empowered to operate, are extremely wide and as such it is a loose fitting garment one could say, they are empowered to do whatever they wish with this Memorandum of Association and therefore one can say that they are not hampered. But it is the fear of the Opposition that they may be nevertheless uncontrolled and our fear relates in particular to the possible effect that the Memorandum of Association as proposed by Government may affect adversely the private sector in Gibraltar. The first line which we see under immediate threat in the private sector are all those businesses which have or which operate in some way with shiprepair or ancillary services. These, of course, are not given any measure of protection under the proposed Memorandum of Association because the Shiprepair Company proposed will be able to do all and any of the things which are already being done by companies in the private sector. But that is not all, Mr Speaker, since the powers include as has been stressed by the Leader of the Opposition under clause (g) the power to carry on any other business of any nature whatsoever this then brings into the forum the fear or the threat posed to all other businesses in the private sector even if those businesses have nothing to do with shiprepair. And one must assume that that clause is there for a purpose, Mr Speaker, and as such the fear is real. If I may detail or be more precise in this matter, the first object which is normally in companies, the first two or three objects listed in the Memorandum of Association are the ones which will actually be used by the company and the first one which relates to the shiprepair business has no limitations, it covers every type of vessel and every type of business for repairing, fitting out, constructing, demolishing, etc. It is in legal jargon a wide fitting clause. We introduced a motion in March of this year outlining the fears that are widely expressed in Gibraltar generally by the private sector as to limitations that should be required of Gibraltar Shiprepair Limited. We would like to have seen for instance in that clause a limitation on the size of vessels that can be repaired. If you refer to all vessels or tugs over 100 feet in length or over 100 tons in weight then that would have gone some way to alleviating the fear or threat which is posed to the private sector. That is one example but in one of the objects of this Memorandum of Association are there any such limitations? They are all extremely wide, they have that in common. And having brought this matter, this genuine concern to the House in March, we were initially put off by Government stating that they would look into this and that the matter would not be prepared in a cavalier manner, it would be well thought out, it would be carefully investigated and yet we wonder, Mr Speaker, whether this issue, this threat to the private sector has in fact been given serious consideration by Government and we wonder whether the risks to the private sector have properly been evaluated by Government and how can we be satisfied or placated when we note that Government Ministers have probably not read the Memorandum of Association. How else, Mr Speaker, can one account for the glaring mistakes in the Memorandum of Association which we have obviously spotted and which I think indicate that the Memorandum has not been read and

if it hasn't been read, Mr Speaker, how can Government state that they have taken every consideration into account? These mistakes show two things, (1) that Government have not checked the Memorandum of Association for the risks that it may contain to the private sector, and (2) that the Memorandum of Association are just a standard set and they are not the kind of tailor-made legal machinery that we were promised. If I may reiterate once again the risks to the private sector are there and our concern is heightened, of course, by the knowledge that things may not go as planned. There is a very serious risk which no one in this House will dispute, not even the consultants, that the commercial shiprepair yard may not be able to attain the high level of productivity and generally may not be able to attain this object. In any commercial venture, Mr Speaker, there are risks, of course, in this one we have stated that they are perhaps greater than would warrant the investment. But having said that I think it is common-ground to state that there are serious risks in that enterprise and that really is why we should look to this legislation to ensure that if things go wrong in a depressed market, for example, that the shiprepair company will not be obliged to poach on the private sector to make ends meet. We cannot evaluate at this point in time the criteria which will govern the Board of Directors. We don't know the constituent members of the Board of Directors and nor do we know the details of the Management Agreement which will be negotiated separately from this Memorandum of Association and that Management Agreement is a crucial element when you evaluate the likelihood of the directors using to the full the powers which they are given under this Memorandum of Association. What we do know, Mr Speaker, is something that was, I am not sure whether it was intentional or unintentional but certainly it was made known at an Access Television broadcast between consultants and a number of invited guests, we were told then that Government will incur a penalty clause for obliging the shiprepair company to take a non-commercial decision. This is a very serious aspect of the Management Agreement and one which we must know more about because it is in the understanding of that penalty clause that we will be able to evaluate the likelihood of poaching in the private sector. Will Government, for instance, not to incur this penalty clause be obliged to allow the shiprepair company to poach? And the reason why that may well happen, Mr Speaker, is because the sort of clause which would read 'liberty to apply in legal form' which is the clause whereby the Gibraltar Government may at some future date apply to the British Government for further aid on the basis that things have not been going well, is conditional. That clause would only be operated to our favour if both the Gibraltar Government have done their part, the Unions have done their part and that the only reason for the lack of commercial success can be laid at the foot of lack of shipping or a general recession. In those circumstances the British Government would help but we all know that perhaps the shiprepair company would be able to make ends meet simply by laying off men at that stage. Then we would be told that a non-commercial decision by the shiprepair company would result in a penalty clause being operated on. We do not know yet, Mr Speaker, whether when that penalty clause is operated, immediately the clause to apply for further aid from the British Government would be lost. We don't know,

therefore, Mr Speaker, whether Government is already planning not to have that penalty clause operated not only because it will cost them money but it will also stop them from going to the British Government and as such the people sacrificed for those ends will be the private sector because again, Mr Speaker, we cannot evaluate without all that information. So what we are being asked, Mr Speaker, is to sign a blank cheque, a blank cheque to give Gibraltar Shiprepair Limited the power and the right to do anything and we have not been told the limitations, the criteria which will in fact apply and without that information, Mr Speaker, we must reject this Bill and we must further reiterate our request for a corporation governed by statute. I am sure that the preferred operators know with some exactitude the nature of their work and as such a corporation by statute would have not just a six line paragraph empowering them to do any work of any type to any vessel but would have a much more lengthy and detailed explanation of the work which they will carry out and that would give us the satisfaction of knowing with more exactness the work which will be undergone, it would give the private sector positive and clear information as to which sectors of their work will be overridden by the commercial shiprepair yard and then we would be able to lobby on specific points if necessary but as the matter stands today, Mr Speaker, the powers are unexhausted and the criteria is not available for inspection. In the circumstances I must reject the Chief Minister's intervention in this debate as one which does not answer any of the serious points raised in this matter and his claim that we are making political capital or making a lot of noise is not justified, Mr Speaker. We haven't started, without making enough noise they will hear us further and louder.

MR. SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I had hoped that the relative length of my Second Reading speech would have been not sufficient but at least have provided a basis for appeasing the genuine concern which was expressed in the motion presented by the Opposition in March of this year and the many representations we have received directly from the shipping trade in particular. I haven't succeeded, I can see that, but at least I can say that I have tried but I think there are important points which I may have to repeat because I think that there is the possibility that my speech was either not clear enough or was not listened to fully. The first point I want to tackle is the allegation, I think that is the right word, that there has been inadequate presentation, an inadequate Bill, not enough time, no thought, unclear. With respect, Mr Speaker, I think this is not entirely valid. I did, in fact, in my speech start off by explaining how the process began as far back as September, 1982, and how we were looking on a contingency basis at that time at the possible set-up of the commercial company and, in fact, it was when we undertook the project study stage which occupied four months of our time

earlier this year, we did in fact probe and go to great length, and I speak personally for a number of people in this respect, to cover as much of the ground as was possible in the time available. The Memorandum and Articles were in fact drafted by a lawyer specialising in commercial maritime law and this was explained to the House, if my memory serves me right, a number of times earlier this year. The lawyer is Mr Alistair Farley who not only worked on the Memorandum and Articles but also was engaged to assist us in the preparation and discussion of the draft Management Agreement because all these papers are drafts and in fact the reason there have not been changes to Acts of Parliament and all that is precisely because of that because we are just working on draft papers and we are not really bothered too much with the ineffective details at this stage but that is by the way. He did also advise us on the draft lease which would be prepared for the handing over of lands and buildings from the Government to the company and there was a fair amount of work for the gentleman. Of course, he was working to the Attorney General and to the Project Study Group and closely coordinating with the Government team, visiting Gibraltar on a number of occasions and although I haven't got the precise cost in front of me I imagine that like all consultants, and I am sure the House is familiar with this, the cost is, I imagine, fairly high but on this occasion I can adopt the fortunate stand that he is being paid for by the ODA. I think I should add that the Memorandum itself was not a copycat version of similar documents in the UK, I am not lawyer, I claim to know nothing, in fact, the first Memorandum and Articles that I saw were precisely these, as an economist I am not in that terrain, but I do know and I have it on file and I have it from recollection personally that this was the third draft and it was completed on the 30th March, 1983. so three months of work including other aspects of the study stage was put into this. I did say in the speech that the object clauses were wide, that they were detailed and exhaustive, nobody is hiding that. Whether or not they are very wide I think one has to judge in relation to other companies and I understand that shiprepair companies in the United Kingdom, for example, have much wider object clauses in their Memorandum and Articles. Be that as it may, Mr Speaker, I feel that an important point is the question of control and the question of the take-over and so on. To an extent I can understand the concern but I think we have to be fairly calm about this, I don't think we should generate too much uncertainty in what is already an economy whiplashed by uncertainties for the last two or three years but I am not saying it shouldn't be done I am just saying we should do it with some moderation. I would like to touch on the point of control of the company, whether the House should have more control, whether it should be a statutory corporation or a commercial company. The advice we have and we agree with it is that a statutory corporation would be too rigid a framework to allow a commercial company to work properly and therefore if we are all so concerned about the viability of the operation, I am certainly very concerned about its viability as an economist, we must try I think and set the best possible grounds to enable that company to achieve that viability. I don't want to enter the dispute on whether there should in fact be more powers for the House, I do take the point

I think we have to ensure that there is full accountability and control and that this House is aware of everything that goes on in that Dockyard, there is a lot of money going into it and precisely on other matters such as funding procedures we intend to regularise that so that the House will also be in a position to challenge, to discuss and to see how things go. I have to, I think, repeat that we have made a lot of effort in ensuring that we have as much control over the new enterprise as possible. I did say, I don't think the Financial Secretary at the time was misleading the House when he was talking about the Memorandum in March and this was in fact before the final drafts were completed but I would like to repeat the point that we came quickly to the conclusion after much debate and thought that the control should not be via the Memorandum, that the control should be via the Articles, via policy directions from the Government, by its contract with the directors, by its appointment on the Board, by the function in which audits will be carried out, by the appointment of a controller and I referred to this and I did so deliberately in my speech because I think that control is very important and I would have hoped that my words would not have fallen too much on deaf ears but I repeat them because I think it is important. Whether it is going to be a satisfactory process is another matter, I did say we had to see how the division of responsibilities can develop over time and how they are tested. I want to tackle once more this, which I think is the central theme of the points by most Members opposite and that is the danger of a take-over. I did draw a distinction that the Gibraltar Shiprepair Limited Company was going to be a publicly owned company not a privately owned company and therefore the analogy with the Falkland Islands Company was completely and utterly irrelevant. I understand that in terms of effect as opposed to corporate structure there is a danger, I accept that, and I did say in my speech in fact that that danger is ever present because the Government can at any time, I think, if it has enough powers and if it wants to pursue that particular policy, can take over areas of the private sector as a whole if it wants to, I haven't seen it happen but that is the theory that is before us and therefore I don't think that we are correct in drawing this analogy because for a start, as I said before, the Falkland Islands Company is privately owned not publicly owned and moreover the Falkland Islands Company is owned by a company which is not even in the Falkland Islands. I am glad, in fact, that after giving way the Leader of the Opposition did take the point that the fear which he had which I am sure is a genuine fear, was a Government take-over of the private sector and I accept that, that risk is there. But if we are going to talk of dangers of take-overs and we must protect this sector and we must protect that sector and I think there are valid arguments for doing so, I don't think we should exaggerate that. I am going to express purely in economic terms what I think is a very important point of view. I think that the economy of Gibraltar particularly over the past few years where it has been suffering, I think, from contracting or recessionary situations is over protected in many ways. I am talking as an economist here, one has to weigh the political and the social aspects to this, I think that the process of legislation which has gone through the short economic

history of Gibraltar in the 1970's and in the 1980's reveal, I think, too much protectionism in the economy. I am not disputing the merits entirely of it but I think that we have become too exposed to the inevitable arguments that whenever something new is about to happen we must ensure, first of all, that everything is protected and then we allow it to come in. The effect has been that we have to some extent created in the private sector cartels or monopolies which do not operate in the better interest to the economy and I think costs are higher, prices are higher as a result. So without, I think, disturbing the political and the social arguments for protectionism in the private sector, I would as an economist cast serious doubts on its value and I think that in looking at a new shiprepair operation we have to obviously take account of the very real interests and the established businesses of many people and we have to try and see how far we can go to protect them, that has to be done, but I think we have to be a bit more positive in our thinking and we have to try and see in doing that to what extent does the new operation offer opportunities for those businesses or for other new businesses and how can we best promote them.

MR SPEAKER:

You must be careful not to bring in any new matters into the debate as you are exercising your right of reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I apologise, Mr Speaker, if I am seen to be taking advantage but that is certainly not my intention. What I do want to put across is that in looking at the dangers of a take-over which I accept are real in the context of a Government moving in, I think we have to look at what that private sector is and how best can we use that private sector in the new situation to try and see whether, I am not saying it can be done, but whether and how some expansion can be provided to the economy and one area, the only area, in fact

HON P J ISOLA:

If the Hon Member would give way. Is the Financial and Development Secretary aware that what he is saying now runs rather contrary to what was said in this debate when protection was sought from the private sector by the Chief Minister himself who was seeking an expansion of activity in the private sector. Listening to the Financial and Development Secretary on purely economic grounds it would seem to us that he would welcome contraction in the private sector.

HON CHIEF MINISTER:

He is just stating exactly the opposite.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, what I am trying to say is that we should try and as far as possible protect what is there and go further and try

and see whether what is there can do more because we have an economy that is contracting more and more and what we need to do is try and remove the uncertainties, try and remove the obstacle if we can and give the economy a bit of confidence and a bit of breathing space. I am not saying that the shiprepairer is going to do it, the only point about a commercial shiprepair yard which struck me, the only point, in economic terms, the only value I saw in it was that the indirect effects or the indirect benefits of a commercial yard are greater than the indirect effects of a naval yard. Whether the direct effects are

MR SPEAKER:

Again I must interrupt you on the same grounds as before.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I was going to say, Sir, that the same might not be the case of the direct benefits and therefore that is the most important consideration. But to come to points of detail and if I have digressed too much I think I have to cover some other ground, there was mention of the need to ensure that the Bill covered the disposal of assets and I think that it was a very valid point. I think in the context of fixed assets there is no need for provision in the Bill since the fixed assets will be released by the Government of Gibraltar to the company and therefore the company cannot dispose of it, but I think that the point is valid in respect of

HON P J ISOLA:

If the Hon Financial and Development Secretary would give way. But then if the capital is going to be increased to £25m, so that money will have bought a lot of equipment that is not a fixed asset at all and which can be disposed of.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the Hon Member was anticipating my flow. There are going to be substantial moveable assets in the area, I think we are talking of at least initially something in the order of £8m of moveable assets and therefore we need to protect that, I think that is a very valid point for Members opposite. I think to answer in general terms points which Mr Bossano himself raised about the need for this Bill to appear early or late, too early perhaps but I think I should explain that the reason why this Bill is before us now is that the Government wishes to incorporate the company as soon as possible in order that the Board can be set up as soon as possible so that these relationships can be controlled, can be more precisely defined and to allow, in fact, the company itself to proceed with invitations to tender and so on to enable the investment process to start as quickly as possible. That is really the main reason why this Bill has to come to this House now.

HON J BOSSANO:

Could I ask the Hon Financial and Development Secretary, would Appledore be engaged by the company once it was incorporated or would they continue working for ODA until it is ready to start?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

At present Appledore continue working on a consultancy basis and I would envisage that they would not be employed as managers of the yard until the company was incorporated.

HON J BOSSANO:

My question was would that happen when the company was incorporated or when it was ready to start operating in January, 1985, that is the question?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think that that is a matter which we would have to look at in relation to the progress that we can achieve. It is certainly a matter initially for the Government to consider but most clearly for the new company but I would envisage that they would be employed before the actual takeover date, whether it is a matter of weeks or months is difficult to say at this stage. Just a final point, Mr Speaker. There was reference to the fact that the managers would poach into the private sector, that there were penalties in the Management Agreement and that there was little control to that extent, this point was raised by the Hon and Learned Mr Haynes. I would like to refer him again to my Second Reading speech where I did explain that whilst the Memorandum and Articles allow the Gibraltar Shiprepair Company to have fairly wide powers and objects, the business which the manager can undertake is spelt out in the Management Agreement and I did mention this in the speech. The extent of their business is not as wide as in the Memorandum and they could not in fact move into any other area other than the shipyard business as defined which I referred to earlier on without the approval and without the decision of Gibraltar Shiprepair Limited who in turn, I think, if we were going to move into areas where there were dangers for existing established businesses and quite genuine fears, then I think the Government would be able to intervene if it already would not have in the context of the policy directions which it would give to the Board. Mr Speaker, I commend the Bill to the House.

Mr Speaker then put the question and on a division being taken the following Hon 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 Zammit

The following Hon Members voted against:

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 Reslano
The Hon W T Scott

The following Hon Members abstained:

The Hon D Hull
The Hon E G Montado

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 will be taken at a subsequent meeting of the House.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS AS TO NOTICE)
(AMENDMENT) (NO 3) ORDINANCE, 1983

HON ATTORNEY GENERAL:

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

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

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be read a second time. Mr Speaker, this Bill further extends until the 30th January, 1984, the moratorium on landlord and tenant and in proposing the Bill to the House I would like to stress two things, ~~Mr Speaker~~. First of all, that the preamble to the principal Ordinance does describe the limited purposes of that Ordinance and, secondly, that in view of what has been said and no doubt what will be said in the House on this Bill, the only point for further extending it is to do so until such time as the Landlord and Tenant legislation has been brought before the House but that is all that is being proposed. 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 P J ISOLA:

I just want two assurances from the Hon and Learned Attorney General. One is that we will have the new Landlord and Tenant Bill circulated to Members of the Opposition reasonably well in advance of the meeting that is going to deal with it, and the second assurance that I would seek is that in voting for this Bill Hon Members are not breaching the Constitution or the European Economic Community Treaty or things like that or the Court of Human Rights.

HON CHIEF MINISTER:

Mr Speaker, the period that has been allowed is what I consider to be the minimum comfortably in order to be able to dispose of the main Bill. We have already made some progress today in presenting the Select Committee's Report. Out of that, hopefully, we can produce pretty soon a draft Landlord and Tenant most of which is already in draft form which accompanied the Report subject to those points that have been raised here and, hopefully we can take that at the next meeting of the House and if in fact we can enforce the new Landlord and Tenant Ordinance at any time before the 31st January then, of course, that Ordinance itself will cancel the present one so really why we have given it only a very short period is in order that we are urged to work fast on it. As to the constitutionality of it or not I would rather leave that to the legal advisor of the Government but I think too much has been made of a casual remark at a certain place by the Leader of the Bar which I don't know whether he has done any research or whether he thought it was effective but, anyhow, as far as we are concerned the constitutionality of previous enforcements and previous extensions has not been questioned.

MR SPEAKER:

May I say that the constitutionality of the matter does not arise as far as the House is concerned, it is for other places as the law Courts to decide on whether any particular piece of legislation which is passed by the House is or isn't constitutional.

HON J BOSSANO:

Mr Speaker, obviously I support the extension of the moratorium, I don't think there is any doubt about that. I think that there is a conflict, I would have thought, between what the Government has said is the way it wishes to depart from the recommendations of the Select Committee and indeed what the Select Committee itself has recommended and the extension of the moratorium because unless I am mistaken, perhaps the Hon and Learned Attorney General can clarify the point for me, I support in fact the extension of the moratorium and the Party came out in reacting to the idea that it should be allowed to lapse whilst

further thought was given to new legislation precisely because it seemed obvious to us that if we have got a situation where all property has been under this moratorium prevented from being subjected to rent increases, the most sensible thing for a landlord to do who wanted to take advantage of a gap between the ending of the moratorium and the introduction of the new legislation would be to try and get as big an increase in while he was able to do it.

HON CHIEF MINISTER:

If the Hon Member will give way. I think I have assured him certainly personally that one thing went with the other and there could be no gap certainly in my mind.

HON J BOSSANO:

I accept that entirely, Mr Speaker. There would be no gap, and I accept that he has told me that, provided the Government was intending to legislate for post-war properties but if in fact the Government is not intending to legislate for post-war properties and they have said that the rent restriction would apply to pre-1945 properties and now it is pre-1940, then the only people to whom the moratorium is of any benefit at all are the people living in properties between 1940 and 1945 because the ones pre-1940 if the moratorium ended would be protected by the existing legislation.

HON CHIEF MINISTER:

Not all.

HON J BOSSANO:

Well, as I understand the law, Mr Speaker, the people who are paying very high rents in furnished accommodation that are pre-1940 are in the main doing it in properties that are being let furnished illegally because they are required to go through a procedure and appeal to the Rent Tribunal and they have not done it and the cases that have been tested the Tribunal has decided that they were incorrectly being rented as furnished accommodation without the matter having been put through Section 7(a). And the ones that are put through Section 7(a) are protected if the moratorium ends today so what we are talking is about extending a moratorium to ensure that there is no gap between now and legislation that is not going to appear if the Government goes ahead and legislates only up to 1945.

HON CHIEF MINISTER:

If the Hon Member will give way. There is also the moratorium on business premises which is also very important and that has been held up and under the new criteria, whatever is approved, will then substitute the old criteria when the moratorium disappears so in that respect it is very valid, business premises rents have been held by the moratorium.

HON J BOSSANO:

I accept that point entirely, Mr Speaker, and I think perhaps it is my fault for not making it clear but, generally speaking, when I talk about the relationship between landlords and tenants I am thinking about the relationship between landlords and domestic tenants because quite frankly I know very little about the relationship on the business side and, certainly, no businessman has come to me for advice or help of problems with his landlord so it is not an area that I feel qualified really to talk about. I accept entirely the points that the Hon and Learned Chief Minister has made that the businessman has got a protection now and that he would be equally at risk if that protection was removed without anything being put in its place but what I am saying is that that argument, fine, may apply to businessmen but it doesn't apply to domestic tenants because whatever the intention was, and let me remind the House that in the 1981 Ordinance brought by the Government, the 1981 Bill, the intention was to extend protection against rent increases by putting a percentage limit irrespective of the date of construction and that that was replaced by a moratorium so that all post-war properties where there are domestic tenants which is what I am talking about not business properties, domestic tenants, all those properties have got a moratorium, fine, the moratorium is being extended until we legislate but we have been told we are not going to legislate so I welcome it only because it will give people a respite of a few months but I cannot see that they are going to be helped very much.

MR SPEAKER:

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

HON ATTORNEY GENERAL:

Yes, if I may. Can I deal first with the constitutional point. Mr Speaker, of course what I say is merely an opinion but my own view is that this is not an unconstitutional measure. The only time I know of when the question of whether rent control as a matter of public policy or Government policy was challenged in the Court, the only time when a challenge has been determined, I should say, in the Courts on the grounds that it was an unconstitutional infringement of private rights, that challenge was defeated. I don't think this further extension of the moratorium is an infringement of the Constitution. I did say quite deliberately when I was proposing the Second Reading of the Bill, I did draw attention I should say quite deliberately to the fact that the short title or the preamble to the principal Bill sets out what its purposes are and it is clear from that preamble that they are not permanent purposes. I also made the second point which the Hon and Learned Chief Minister has also stressed, that the reason it is being extended now is for temporary purposes and overall I do not think it is unconstitutional. To come to the point raised by the Hon Mr Bossano. If I understand the point correctly and I will give way quite readily if I have not understood it, the answer, surely, to that is that the moratorium did no more than to freeze rents while Landlord and Tenant

legislation was being considered by the House. It will have that effect up until the new measures are brought forward but it never sought to do anything more than that, surely, and the fact that the new measures don't, so far as private tenants are concerned, go beyond a certain stage, I don't myself see as being inconsistent but I may have misunderstood the point.

HON J BOSSANO:

If the Hon Member will give way. The moratorium arose, Mr Speaker, out of a decision on the part of the Government not to proceed with the Bill that they brought to the House and instead to substitute a Select Committee and part of the argument that was put, for example, by me to their proposals was, say, that rents in post-war properties shall not be increased by more than 10% per annum without reference to how fair the existing rent was, effectively penalised somebody who had been under charging and I remember that I said at the time that if somebody is charging a £10 rent for a flat he can only go up by £1, if somebody is charging for an identical flat £100 he can go up by £10 so in fact by having a percentage increase legislated without reference to the fairness of the existing rent structure then you are rewarding the bad landlord and penalising the good one, assuming that there are some good ones around, and I think the Government said: "Well, then the thing needs to be gone into more detail and therefore until we have a decision on how we are going to control post-war rents we won't allow them to go up at all". It seems to me that we now have an indication that they are not going to be controlled at all and therefore I want the moratorium to go on obviously because the longer it goes on the longer the people will be without a rent increase but it seems to me that the essence of the moratorium which is to freeze the rents until you legislate in that particular area there is a conflict certainly of logic.

HON ATTORNEY GENERAL:

I understand the point that is being made, Mr Speaker; and the answer as I see it is that there wasn't a commitment in that respect but perhaps I should go on further than to do what the Hon Member didn't do when the Report of the Select Committee was considered earlier on and simply say that I would like to note the point. The last point, Mr Speaker, I'll simply say that I will not be seeking to suspend Standing Orders in respect of the Landlord and Tenant Bill. I simply ask the Hon Members to bear in mind that while I do not for a moment suggest that it is enough that they have in fact some idea of the proposals, I am not saying it is enough and it is a major Bill to print and bring it to the House but I note the concern. Sir, I think I should 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 be taken at a later stage in this meeting.

This was agreed to.

HON CHIEF MINISTER:

Mr Speaker, I think it is your intention to recess now, I think perhaps in view of the progress made I should indicate what the Government intends to be the order of business tomorrow having regard to the fact that Bills have been distributed today in which Standing Orders will have to be suspended. In the case of Criminal Offences Ordinance, it is purely a clearing up operation which has been suggested as a result of the law reprint and it is suggested that that will be taken for First and Second Reading tomorrow and the Committee Stage and Third Reading at a subsequent meeting. The shorter but equally important even though it doesn't deal with treason and murder but it deals with payment of Unemployment Benefit which is more important, I think, the other one is intended to go through all its stages. I hope Members opposite, as it is not a very large Bill will be able to look overnight through it and agree to it being taken through all its stages tomorrow. Should that not be the case then, of course, we would have to come formally on Thursday morning to take its Committee Stage. During the debate tomorrow it will be shown why this is an urgent Bill and should go through all its stages at this stage if Hon Members agree. As I say, we want to get it through at this session and, hopefully, tomorrow and in that case it is a matter of your discretion at what time we recess but that will be the only business that remains.

MR SPEAKER:

I have received notice by the Hon Mr Bossano that he wishes to raise on the adjournment matters related to the right to naturalisation. I was intending perhaps, to recess until 11 o'clock tomorrow because I thought we might have had plenty of time but in order to be on the safe side perhaps it might be better if we recess until tomorrow morning as usual at 10.30 am.

The House recessed at 6.50 p.m.

WEDNESDAY THE 9th NOVEMBER, 1983

The House resumed at 10.45 a.m.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY GENERAL:

Mr Speaker, this measure is a measure of urgency and it has come up a matter of urgency, that is the basis on which I move the suspension of Standing Order 30 in respect of the Non-Contributory Social Benefit and Unemployment Insurance (Amendment) (No 2) Ordinance, 1983.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

THE NON-CONTRIBUTORY SOCIAL BENEFIT AND UNEMPLOYMENT INSURANCE (AMENDMENT) (NO 2) ORDINANCE, 1983

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that a Bill for an Ordinance to further amend the Non-Contributory Social Benefit and Unemployment Insurance Ordinance (Chapter 113) be read a first time.

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

SECOND READING

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be now read a second time. Sir, first of all I would like to apologise to the House for the short notice that I have given in respect to this Bill. I hope that last evening they had the opportunity to read through it. Basically, Sir, the idea is that because of the unemployment situation which exists in Gibraltar there would be certain types of people unemployed under the conditions existing now who will have very little chance of getting employment in Gibraltar and the idea is, Sir, that if the person who becomes redundant so wishes he can be paid a lump sum equivalent to the thirteen weeks he would be normally entitled in unemployment rather than be in Gibraltar on a weekly basis to get his unemployment benefit. This is aimed at non-EEC members because of course, EEC members have the privilege of exporting their unemployment benefit but non-EEC members haven't got this privilege and we thought that under the present unemployment conditions it would be better that if the man so wishes and at the discretion of the Director of Labour he may collect the unemployment benefit due to him if his unemployment has been caused through redundancy.

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 W T SCOTT:

Mr Speaker, I must admit that initially when I saw this yesterday I was taken by it but after a short reflection, and we haven't really had much time to look at it in depth as I am sure the Government will agree on that, I see certain pitfalls within this that I hope to explain as I go along. I see very obviously there are certain very distinct advantages to it as the Hon Member has just said, not the least being that the thirteen week period or rather the thirteen weeks that an unemployed individual is entitled to receive unemployment benefit, he can effectively

extend that period to something like twenty-six weeks. There is also the advantage as I see it within the civil service element of the DISS and it puts obviously people to less work in one lump sum so there is that benefit as well. But there, I feel, Mr Speaker, matters of considerable principle involved here, principles which I think could set a very dangerous precedent. A dangerous precedent insofar as you are effectively saying to an individual: "As far as we are concerned you are entitled to thirteen weeks unemployment benefit, if you leave we will give you those thirteen weeks of unemployment benefit and call it a gratuity, but effectively it is still unemployment benefit and we are paying these in advance". This is I think a matter of great principle which is already setting a precedent, a very dangerous one at that and I don't think we can shake that away too readily. There is danger also of an individual purposely putting himself into that situation when he becomes redundant precisely so that he should get the thirteen weeks unemployment benefit, so it can be used in that manner and I don't think this is going to be totally beneficial to us and Gibraltar. I also don't like, Mr Speaker, the idea of giving the Director discretionary powers. The Director of Labour and Social Security under different Ordinances already has a lot of discretionary powers and we are adding somewhat more to that burden. Thankfully, I think the record of Directors that we have has been exemplary the same as the one we now have but I feel that there is that great danger of giving a civil servant that much power to decide things which should be of a political nature. I also wonder, Mr Speaker, what would be the position, because we are talking here about non-EEC labour, what would be the position if an individual who has taken advantage of the thirteen weeks unemployment benefit in a lump sum, he really cannot be stopped from coming into Gibraltar as a commuter and working clandestinely. We had that a few months ago when the Government introduced legislation here to protect local workmen in industry and we said at the time that it didn't really go far enough because it doesn't stop people in that position still coming after having received their thirteen weeks unemployment benefit and I also would like some indication from the Minister, Mr Speaker, when he replies as to what happens on the quota system once an individual having received the thirteen weeks gratuity, what happens to his place, if you like, which has been allotted within the Manpower Commission framework, what happens to that? Can it be filled, for example, from across the border? Basically, Mr Speaker, I feel here that it is a question of principle, a political principle because if you look at the explanatory memorandum, the second paragraph, the purpose of the amendment which will have temporary effect until the 31st March, 1985. I ask myself why that date, why not beyond? The 31st March, 1985, is thirteen weeks, the period of unemployment benefit that we are talking about, thirteen weeks after the closure of the Naval Dockyard. So effectively what the Government is asking us to do where we have always opposed the principle or the type of commercialisation that Government has thought to put within the Dockyard, they are asking us in this roundabout way to go with it and in those circumstances we cannot, Mr Speaker. Thank you.

HON J BOSSANO:

Mr Speaker, I will support this Bill.

HON P J ISOLA:

Of course.

HON J BOSSANO:

The Hon Member is not suggesting that I am not opposed to the Dockyard closure in saying of course. I know that anything is possible for the Hon and Learned Member and I suppose it is possible for him to suggest that I am in favour of the Dockyard closing at this stage. He has demonstrated the opposite and I think I will still demonstrate the opposite when the time comes but I suggest to him that if his opposition is to the 31st March, 1985, then a Member of the Opposition should move an amendment to remove that date and I will support the amendment since that is the only matter which can possibly be said to be connected with the closure of the Dockyard.

HON W T SCOTT:

If the Hon Member would give way for a minute. It is only because there was an indication there and that there was a date that it made us think why was it that date?

HON J BOSSANO:

I accept what the Hon Member is saying and I am telling him that if it is because the date was there and therefore in the Hon Member's mind that date means that if he supports this Bill he is supporting the Dockyard closure because of the date then he should move an amendment to remove the date and therefore the provisions of the Ordinance would apply irrespective of whether the Dockyard closes in December, 1984, or not which I understand, in fact, his party has already accepted. I don't think at any stage they have said that they are not accepting the closure of the Dockyard, I think they have said throughout that they are not accepting the package negotiated by the Government and they would wish to renegotiate. I would tell the Hon Member that since he has chosen to make this link that I would have thought the arguments put yesterday by other Members of the Opposition regarding the Memorandum of the Gibraltar Shiprepair Company where it was said I think by the Hon Mr Haynes that the Opposition view was that it should be done by statute and not by setting it up under the Companies Ordinance, is a more clear commitment to accepting commercialisation than accepting this Bill. I am supporting this Bill, and let me explain to the House that the initiative for introducing this measure has not in fact come from the Government, it has come from the people affected, people who feel that after working for a very long time in Gibraltar, people in the private sector let me say, have found themselves unemployed with the burden of paying high rents in Gibraltar and the burden of supporting a family in Morocco and very little money left over from the unemployment benefit and the difficulty that if they go during the period of unemployment to visit their families they then have

to pay £50 to come back to Gibraltar and continue unemployed. The representations have come from the Moroccan workers and the Moroccan Association on the basis that they are seeing very little back for the years that they have contributed to social insurance. In the last month, Mr Speaker, we had a particularly clear example of the discriminatory nature of our existing social insurance system, discriminatory perhaps unintentionally but discriminatory nonetheless and one that I doubt very much Members on this side of the House will say they will not support this measure would be prepared to support the alternative to this measure which to my mind would be to give Moroccan workers right of residence in Gibraltar because we have had the situation where thirty Moroccan workers, seamen, for whom there is no alternative employment in Gibraltar, have been made redundant in the Mons Calpe, they have no right of residence in Gibraltar, they have no place of residence in Gibraltar because they lived on the Mons Calpe, they have contributed for twenty years to the social insurance scheme and they cannot collect thirteen weeks unemployment benefit because they have got nowhere to live. What is the solution to that problem? That has nothing to do with the Dockyard closure in 1985, that problem is there now and people have made contributions for twenty years and they are getting a very small proportion back of what they have contributed and I think the least we owe them for twenty years service is an opportunity to take their money and go because in fact if they spend thirteen weeks here in Gibraltar if they found somewhere to live for thirteen weeks, at the end of the day there would not be thirty seamen's jobs, there aren't thirty seamen jobs in Gibraltar and I think it is right that there should be discretionary powers on the Director. I don't think it is a matter for political decision because the discretionary powers are related to the reasonableness of obtaining alternative employment and that is a function that the Director of Labour and Social Security has to carry out, it is his job to assess the prospects of employment of somebody. If he cannot do it then we might as well shut up shop and not have a Labour Department at all and I certainly don't think it is a political decision, it is not a matter of policy. The policy that we have to decide is whether in fact, for example, that limitation should exist. One can say quite legitimately it should be a matter of policy to decide whether somebody who has been made redundant should be entitled to claim the payment of benefit in a lump sum irrespective of whether he is offered other employment or not or whether in fact the Director should have the right to refuse it to him, that is the policy, but if the policy that is decided is that it is not an automatic right, it is a right that is conditional on alternative employment being available within reasonable time of the person losing his existing job, if that is the criteria as a matter of policy then, surely, the application of that criteria must of necessity be a civil service function, it cannot be a ministerial one otherwise you would have to have the Minister down there interviewing every Moroccan redundant worker to assess his prospects of re-employment. I shall be supporting the Bill and certainly let me make it absolutely clear that I am totally committed to opposing the closure of the Dockyard and opposing commercialisation irrespective of who else wants it here or in the United Kingdom, including Mr McQuarrie.

HON ATTORNEY GENERAL:

Mr Speaker, may I deal with two or three points of a technical nature which were raised in debate on this Bill which really go to the question of whether it is a precedent and whether or not the system can be abused or may be abused. The first point to emphasise is that of course it is for a limited period of time and will expire because it is seen as a temporary measure.

HON P J ISOLA:

If the Hon Member will give way. Aren't there going to be Moroccans working in Gibraltar next year and the year after, why is it a temporary measure?

HON ATTORNEY GENERAL:

It is a temporary measure as a matter of policy. But perhaps if I can develop more on the machinery side of it and the point I would like to make is, first of all, there was concern expressed about the fact that it could be regarded as a gratuity and on that can I simply emphasise that the Director of Labour and Social Security has to be satisfied that the person has been made redundant, that is the primary consideration, he has to be satisfied of that and he also has to be satisfied either that there is no reasonable prospects of the person being employed for the duration of the period of unemployment or that there are other special circumstances. There is that control that he himself must be persuaded that this is the situation that exists and in that respect I think it can be distinguished from the concept of a gratuity. The second point I would like to deal with is the point that there is a risk that a person having received the money will go away and come back. I will just draw Hon Member's attention to the fact that there are provisions in the Bill covering that situation, in other words, that if somebody does obtain employment in Gibraltar during the period for which this lump sum is being paid then there is provision for recovery of the amount, there is that safeguard in the Bill.

HON W T SCOTT:

If the Hon Member would give way. I referred to commuters to Gibraltar from across the border using that situation, I didn't restrict my arguments purely to Moroccan workers.

HON ATTORNEY GENERAL:

I appreciate that, I simply wanted to emphasise the fact that in principle the Bill contains provision for the recovery of monies if in fact a person having received unemployment benefit in a lump sum does come back and obtains a job, in principle that is covered in the Bill. The third point I would like to deal with is simply that concern was expressed that a person may make himself redundant. Well, there again I would simply draw attention to this fact, that it is the Director who must be satisfied with the conditions upon which a payment maybe made has become operative, he has to satisfy himself that there has been redundancy and he will be able to take into account, no doubt, whether

it is genuine redundancy or not. I don't suggest that that is a foolproof arrangement but nevertheless again in principle he must be satisfied that there has been a redundancy.

HON MAJOR R J PELIZA:

Mr Speaker, I would very much like to be able to support the Bill because I see that there are humanitarian reasons why this should be done but I am not sure that in doing so we are not going to create serious problems for the future. I think when the Attorney General replied when asked by my Hon Friend: "Why is it a temporary measure?" He said: "It is a temporary measure because it is a matter of policy", which clearly shows that they are incapable of bringing out a good strong case as to why this is a temporary measure. I would have thought if the Government has brought this in a hurry, that even though it has been rushed through they would have had a strong case for bringing it forward. We haven't heard the Minister who introduced the Bill really making a case for it. He made a very short contribution in which really he said nothing and all the points that my Hon Friend Mr Scott has put forward I think deserve consideration and answering and I don't think they have been answered so far. My Hon Friend, Mr Bossano, brought out cases like the thirty seamen on the Mons Calpe. What is there to stop a Gibraltarian saying: "I have got a good job in England, I am going to be made redundant, if I stay here for thirteen weeks I won't be able to get that job, I have got to go", what are you going to tell him? "You are a lesser being than a Moroccan, you are not entitled to get it?"

HON A J CANEPA:

The Minister explained that but you weren't listening.

HON MAJOR R J PELIZA:

What I am saying is that whatever the Minister may be saying today the pressure is going to build up and the Union will come along and say: "Here we have a very strong case". I think the House will agree that it is a very reasonable case and what are we going to say, 'no', when that man is being made redundant and is not going to get a job? The Minister for Economic Development says no now but if the Union had come with the same propositions that they have come on this one, well, judging by the action of the Government in the past I don't think they have the gumption or the guts or whatever you want to call it, to put things that are right first before their own political future and I am afraid that what we are doing is introducing something new on unemployment benefits. If that is what the Government wants to do they should do it and with that I go along. Let us analyse whether that is fair or is not fair, whether we should do it that way or we shouldn't do it that way and if the decision is that that is not really in the interest of the workers in Gibraltar today because there is going to be a lot of unemployment and lots of people may have to leave Gibraltar including Gibraltarians, let us not forget that because if the Dockyard closes I can see lots of Gibraltarians having to leave Gibraltar, are we going to tell them no? The Moroccans yes and the

Gibraltarians no? Why? Why should that be the case? Why should a Gibraltarian be treated in a different way to a Moroccan when they have just as strong a legitimate case? What is this man going to do here in the future if there is no work, the same as the Moroccan, and he now has a job in England where he can go to? Why should we stop him or deprive him of that benefit? Why? I cannot see why, quite honestly, I don't think that in natural justice that stands. It will stand as an expediency measure that the Government wants to take now but it would be unfair to do it and I would be the first one to say that if it is good for one it is good for the other, no question about it. But what the Government is doing, therefore, in my view, is acting without giving sufficient thought and therefore creating themselves serious problems for the future and it is not only them who might be in Government, somebody else might be in Government and that somebody else will have to sort it out again, another mess. Another mess made by a Government that is leaving quite a lot of messes behind from the electricity to the efficiency of every department which they are investigating now, that is the situation. This is another mess that the new broom will have to sweep, Mr Speaker. It is because I am talking so much rubbish Mr Speaker, that the Chief Minister is again objecting so strongly to what I say and even losing his temper as he did yesterday, Mr Speaker, I think he regrets it afterwards. Anyway, Mr Speaker, as I see it I don't think Mr Bossano really got the point that my Friend made here. Perhaps I can make it for him because Mr Bossano is very clever when he wants to and suddenly he misses the point when he wants to miss it. My Friend made it very clear, it was not a question of changing the date, amending the date, the date was an indication of why it was being done so the amendment doesn't come into it. What he is trying to say is that the date is fair because this is obviously intended for the situation that is going to be caused by the closure of the Dockyard and what he then went on to say: "if we are opposed to the closure of the Dockyard and we are going to go on with this, what we are doing, in fact, is helping the whole thing to go smoothly when that should not be the case as the Opposition oppose it".

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. Perhaps since I am supposed to be so clever he would explain to me because I really cannot understand if the Ministry of Defence intends to send on Monday letters to 800 people telling them that they are likely to lose their job in 1984, I would like him to explain to me whether the opportunity that 200 out of those 800 may have or may not have in 1985 if the Dockyard is closed to take unemployment benefit in one go or not to take it, how that in any way is going to influence the MOD in their decision to close or not close? I would like him to explain to me how he thinks if we don't pass this measure the chances of stopping the closure are improved?

HON MAJOR R J PELIZA:

Yes, I think they are improved the same as redundancy money

improves the chances of closing the Dockyard and the more money that goes into the redundancy the more inclined the poor worker would be enticed to get it as in fact is happening in the union as the Hon Member knows very well. Many of those workers who are giving in now would not give in if it weren't for the enticement of the redundancy money. I am sorry I am not going to give way any more, Mr Speaker, he has had his say and I must continue speaking. My argument is not against my Hon Friend, my argument is against the Government. It so happens that on this occasion, as in some others, my Hon Friend is with the Government because in fact the whole thing was initiated by the unions and this is the only reason why the Government have acted in the way it is acting, not because it makes sense and also of course because it helps them to carry on with the closure of the Dockyard, there is no doubt in my mind about that. To have 400 workers hanging around unemployed is not the same as getting them out of the way very quickly even if they come back as my Hon Friend says here, even if they come back and they work clandestinely. And there is no question of the law catching them because we know that there are a lot of Spaniards doing it today and there is nothing the Government can do. Equally, there is going to be nothing they will be able to do if these Moroccans come back and carry on working here and, in fact, indirectly taking a job away from somebody else. That is the situation. I think that is a situation that it would not be in the interest of Gibraltar to create either in the present, either through the closure of the Dockyard, in the interest of the workers concerned and in the interest of future Governments of Gibraltar and because of that, Mr Speaker, looking at the humanitarian side which I would very much like to be able to assist, in fact, the first thing that came into my mind were the poor workers who obviously would like to get a lump sum. Some of them go for good others, I am sure, would come back. In fact, most of them will come back because we know there is no work on the other side where they are going. When in their ignorance and innocence they spend their money altogether at once which could have been spread over thirteen weeks and perhaps giving them an opportunity of getting another job, they are now completely at a loss at the other end without a penny in their pocket and perhaps the family even suffering more than before. That is in practice a situation that is likely to happen, Mr Speaker, whatever the Minister may say, that is very likely what is going to happen because these people don't appreciate that money disappears and they will never get it back and when they see it altogether they will be inclined to buy things they have never had before which is very human, too. So in a way, Mr Speaker, although one might think we are doing some good in fact we may not be doing them some good but that is a matter of opinion, Mr Speaker, a matter of opinion which I think there is a lot of sense in what I am saying and in their heart of hearts many people know that what I am saying is the truth, that is a fact. But putting that aside, Mr Speaker, it is the other side that is even more serious, as I explained before, that if we are going to take a stand on the issues that are so vital to Gibraltar we must try, if possible, to take it up in every quarter not here and there which in the long run will start weakening the whole position. One more little thread breaking, Mr Speaker, is weakening the whole resistance. I have from the beginning opposed the closure of the Dockyard. I understand that

if the British Government goes ahead and closes it there is absolutely nothing we can do but at least let us do our best before they do it because whilst there is life, Mr Speaker, there is hope and I still have the hope, Mr Speaker, even at this eleventh hour. If the unions, if the Government and the Opposition and everybody in Gibraltar were to put up a stand, I am absolutely certain that we would be able to prevent that catastrophe that will follow the closure of the Dockyard.

HON J CANEPA:

Mr Speaker, I cannot allow the Hon Member to state something which just isn't the case and that is that there is nothing that can be done about Spaniards working illegally in Gibraltar. Something can be done and something has to be done and what has to be done is to amend the Immigration Control Ordinance so that every Spaniard coming into Gibraltar has his passport stamped to the effect that he cannot come into Gibraltar looking for work or in order to do business. That is what has to be done and if that is not done within the next few months it will be because the British Government, perhaps, may not particularly want us to pass legislation to that effect. It may have to be made an election issue. The trouble with Hon Members opposite is that some of them are deaf because they are hard of hearing and therefore whatever is said here doesn't get across or else because their minds are just closed. The Hon Major Dellipiani explained the position regarding the Gibraltarians but of course the Hon Member there doesn't understand things because he doesn't want to understand things and that is why from experience here in the House I think it is a waste of time for anybody to speak before the Hon Member because whatever you say it is water off a duck's back, it doesn't make any difference to the Hon Member, he will get up as if you had said nothing. Major Dellipiani explained that the position of EEC nationals, and Gibraltarians are EEC nationals, is different to that of non-EEC nationals. A Gibraltarian can export to Edgware Road his unemployment benefit, he takes it with him to UK and becomes entitled to unemployment benefit in the UK, in Germany, in France, wherever he wants to go but that is not the position of the Moroccans. Does he want me to repeat the point again so that it sinks into that mind of his because I will say it again. The Gibraltarian is not being discriminated against because he is already under a more advantageous position than the Moroccan because of EEC considerations. The immediate cause behind this piece of legislation are the redundancies at the Mons Calpe because otherwise we would not have needed to bring this piece of legislation to the House now, it could have been brought later, next year, but because of the peculiar circumstances in which the seamen in the Mons Calpe find themselves in, that has been the immediate cause why we want to bring this measure to the House now, push it through all stages so that those people can become entitled to unemployment benefit which otherwise they will not be able to do because they haven't got the right of residence in Gibraltar. What about then the date of March, 1985? That date is connected with closure of the Dockyard, nothing to do with commercialisation, nothing to do with Bland taking over the Dockyard or anything else or a grant-aided situation if there is no commercialisation, it has to do with closure of the Dockyard and what

does the Hon Member who lives in Edgware think that we should do? What does he think that we who stay behind here and have got to carry the can from day to day out in the street subjected to our constituents, what does he think that we should do between January, 1985, and March, 1985? Have unnecessarily, if we can avoid that, 200 or 300 or 400 Moroccans without a job, without any prospects of a job, taking up unnecessary accommodation in Casemates and have added to the problems that we are already going to have of an economic and of a political nature the added social problem of 200 or 300 Moroccans in that situation? Is that what responsible leaders of Gibraltar should allow to happen? Because we have got to give priority of employment for such jobs that there may be in 1985 to Gibraltarians and to EEC nationals and then only for Moroccans and if that is the position of those people who have been working in Gibraltar for many years and contributing to the social insurance scheme and who are going to get nothing until they reach the age of 65 in due course, if that is the position of those people we keep them here so that they can be manipulated and used by agitators, is that what he thinks we should allow? That is the purpose of this legislation so that the Director of Labour in the exercise of his discretion, knowing that the prospects of those individuals the majority of whom are unskilled, knowing that their prospects of getting alternative employment are going to be practically nil can, if the individuals so wish, if they so apply, get their unemployment benefit in their lump sum and at least use that money in Morocco perhaps to greater benefit than what they can do if they stay for thirteen weeks here in Gibraltar. That is the purpose behind it whether he wishes to understand or whether he doesn't.

HON P J ISOLA:

Mr Speaker, I wasn't going to contribute to this debate because I thought the question of principle had been set out quite clearly by my Hon Friend Mr Scott and by the Hon and Gallant Major Peliza but I think I am going to intervene to point out a few things. The first thing that occurs to me is the undesirability of rushed legislation without notice, without explanation to the public, without any previous publication. Here a great number of things of principle have come out in this debate, a law is going to be rushed through all its stages to meet the position of thirty Moroccan workmen from the Mons Calpe and it is all going to be done quickly, Mr Speaker, because no thought has gone into the problems that arose from Bland's declaration of redundancy three months ago or two months ago and now when it has actually occurred it suddenly occurs to the union represented so ably by my Hon Friend Mr Bossano in this House, and the Government, that there are thirty Moroccan workers from the Mons Calpe who haven't got anywhere to stay but want their unemployment benefit and because of that the whole principle of unemployment benefit is changed, the whole principle on which it is given is changed, legislation is rushed to 31st March, 1985, for the reason that the Hon Mr Canepa has set out but no thought is given as to what happens after the 31st March, 1985, when there will still be Moroccan workers in Gibraltar, when there will still be Moroccans who will be able legitimately to claim to their union who will then press the Government why

cannot they have thirteen weeks in one go when the others have had it? Why must they go on paying rent in Gibraltar? Why must they go on paying things in Gibraltar when the other boys have had the thirteen weeks because it has either been considered convenient or comfortable to pay these monies. Mr Speaker, as I understand the position unemployment benefit is paid to the worker whilst he is unemployed, but that is the principle in the Social Insurance Ordinance. When the Hon Minister for Economic Development tells my Hon and Gallant Friend there is provision for Gibraltarians and EEC nationals to export their unemployment benefit, that may be so but not in one go. Why doesn't the law then say that the Moroccans can export their unemployment benefit, might that not be a more sensible and equitable approach to the matter for further redundancies in Gibraltar? And I ask the Minister for Economic Development another question. If we are going to have 400 unemployed Moroccans running around Gibraltar on the 1st January, 1985, and I agree with him it is not desirable they should be running around and being manipulated and therefore he wants to get them out of the way but isn't it better to look at the root and the cause of that problem and see who created that problem and ask him to pay for that? Might not another approach to this legislation have been, Mr Speaker, as far as the redundancies in the Dockyard are concerned because clearly that is the real reason, the union have provided the excuse or the opportunity for this measure, that is the reality of the matter. I am sure the Government would have found thirty beds in Casemates for those Moroccans if necessary not to breach the principle but the opportunity has been provided by the union and that is why it has gone to 31st March, 1985, otherwise if it was just for the Mons Calpe it could have been done just for those thirty, a piece of legislation deciding that those thirty be compensated by thirteen weeks unemployment payment and their rights under the Social Insurance Ordinance otherwise abolished or whatever it is, cancelled. But, Mr Speaker, if the problem has arisen as it has as a result of the closure of the Dockyard, might not another approach have been that in the terms of closure and in the terms of Ministry of Defence redundancy and in the terms of the British aid to Gibraltar in the £50m, I am told or whatever it is, some provision could have been made to add thirteen weeks unemployment benefit as part of the deal and not meddle with the principles that are enshrined in the Social Insurance Ordinance and therefore settle that problem that way and then, Mr Speaker, I go back to the other problem. The Minister for Economic Development has told us that he doesn't want to have 400 Moroccans unemployed rushing around Gibraltar but I ask him, where are the plans to find work, where are the plans that he announced when he said that he would not have accepted the Dockyard package if it hadn't been for all the other things that were going to occur in Queensway and Rosia, and what about the Ministry of Defence plans that they have announced already about extra workers being required to separate the naval base from the Dockyard, more labour. I thought that the essence of the deal was not just commercialisation, that the essence of the deal was also the creation of new economic activity so how can the Minister for Economic Development be speaking now, in November, for January, 1985, not January, 1984, that is the election, that is when the promises

all come out, but January, 1985, that there will be 400 unemployed workers? Is that the confidence, is that the measure of confidence that the Minister for Economic Development has in the development of Gibraltar? Is that the measure of the confidence he has in the package that he proudly said yesterday he signed as witness to the Chief Minister in Carlton Gardens? Is that the measure of the package, Mr Speaker? I shouldn't be speaking about all this but I am speaking about it and I am saying it, Mr Speaker, because I think that this is the danger of unconsidered emergency legislation which is brought about just to meet the case of thirty people in a population of 29,000, a whole principle is breached because of thirty people without thinking: "Well, what other arrangement can we make to provide for these people? How can we work it?" I thought the consultants at the time said something about the Government helping in the Bland redundancy terms, I don't know what happened if anything has happened at all, probably not, but within that sort of philosophy it could have been arranged because whatever the Government may say, Mr Speaker, once it is provided in a law that unemployment benefit can be paid thirteen weeks in advance, once the principle has been breached as it has here, I cannot see how the Government can resist applications by EEC nationals or by Gibraltarians to have their whole unemployment benefit paid in one whack in advance and not as at present provided exported once a week or however it is done. I don't see how you can legitimately against proper pressure refuse that once you have accepted the principle of other people and not only, Mr Speaker, and I am looking ahead, there is no question about it that if Moroccans all leave and they are paid their thirteen weeks in advance there is obviously a gap left in the quota and others can come, other non-EEC nationals can get employment in Gibraltar within the quota or it can be provided for by agreement and, Mr Speaker, in the future, it may be, I don't know how the quota works, and may I say I don't, that is a good frank admission but I do know that if you provide for 200 building workers and they go and the quota comes down to 200 it is not a difficult matter to bring it up again and get workers from another place and what I am saying is that in that situation, if it occurs, in the future the same situation could arise again and other non-EEC nationals also ask for thirteen weeks in advance on the basis that they have expenses to pay at home, any excuse. Once the principle of unemployment benefit is changed from benefit to gratuity which is what is happening now, thirteen weeks lump sum, that is a gratuity payment, it is no longer unemployment benefit because the purpose of unemployment benefit is for people to attend at the Department of Labour and see if there is another job and My Friend Mr Bossano says there is no other job for seamen but must a seaman be employed as a seaman? If there is a world recession which the Hon Mr Bossano has been talking about so much in shiprepair, ship construction and ships moving around the world are seamen going to insist for the rest of eternity that they must be employed as seamen? Mr Speaker, there may be other jobs becoming available, there may be other jobs developing of other kind within a period of thirteen weeks but whatever that situation is, Mr Speaker, it is in fact irrelevant to the argument of principle where unemployment benefit is concerned. It is irre-

levant and this is a piece of legislation that has obviously been rushed through to save the situation of thirty people and I agree that the Government should look after one, not just thirty, but what I am saying is they shouldn't breach the principle of this particular Ordinance, they shouldn't breach it just to meet those thirty they should think of ex-gratia payments, quite simple, ex-gratia payments by the Government if necessary in return for relinquishing all rights under the Social Insurance Ordinance, ex-gratia payments to these thirty people and pack them off or whatever but to come along and ask this House at short notice to change the Ordinance with all these consequences that I have pointed out now and in the future and to pretend that because they make it only applicable to 31st March, 1985, that is the end of the problem, Mr Speaker, that is wishful thinking. Once the Government has accepted it under pressure from the unions in respect of thirty people, once it has accepted it there it will accept it tomorrow, in 1985, in 1986 and 1987 under pressure from any body of persons with any sizeable support. I think that is wrong and I think that although my Hon Friend has made a case and I can now understand why it is such a rushed job, I couldn't understand why it was a rushed job to 31st March, 1985, and I think the Minister for Labour might have told us when he introduced the Bill that the real reason why the Chief Minister wanted it to go through all stages was because he wants to settle the problem of the Hon Mr Bossano's members and if we had been told that we would have understood but we didn't, we saw 31st March, what is the problem of rushing it so much? Now we know, we think that problem could be dealt in another way. I will give way.

HON J BOSSANO:

Mr Speaker, the Hon Member asked why can't the seamen get another job when there is a world recession in shipping? The seamen are not insisting on being seamen. Obviously, there is another law that the Hon Member is not familiar with which is the Control of Employment Ordinance which says that a non-EEC national cannot change his trade and therefore if a person gets a work permit to be employed in Gibraltar as a seaman and tomorrow there is a vacancy for a labourer, the Labour Department will refuse him a change of employment. The reason for that is that if this were not the case we have, for example, a chronic shortage of welders somebody could come in ostensibly as a welder and within a matter of months change to being a labourer where we have got a surplus of labourers and it is to close that loophole that people are not allowed to change trades. So whether the seamen like it or not they are condemned to be either seamen or unemployed, that is the answer.

HON P J ISOLA:

I think the Hon Member is not quite right there because I know that there are quotas for different trades and so forth.

HON J BOSSANO:

No, Mr Speaker, if the Hon Member will give way. A quota is by industry.

HON P J ISOLA:

I know it is a quota by industry but if the Hon Member would point out to me the provisions of the Control of Employment Ordinance which preclude the Director of Labour from giving a permit to somebody who is working as a seaman to be a waiter I would be grateful because as I know it is not in the Control of Employment Ordinance, it may be a matter of policy in the Director's Department and if it is a matter of policy that policy can be changed, Mr Speaker. If the Director of Labour feels that he has got thirty jobs, for example, as waiters - yes, they could be because they do waiters jobs in the Mons Calpe - in hotels, I don't think anybody would object to them being given priority over other non-EEC nationals if the jobs are there. Nobody in this House would object, we would much rather see the seamen of the Mons Calpe employed as waiters in hotels in Gibraltar than people coming from across the border, certainly on this side of the House. I do not think that is a problem. Mr Speaker, I think I have said enough but as far as we are concerned I think we will definitely maintain, especially after what we have heard from the Minister for Economic Development as to the real reason and certainly after the obvious pessimistic forecast about Gibraltar that are implied in what he has said, we certainly won't go along with this Bill. We would like Government though to go on more constructive business, go on ways as to see how these people can be kept in employment after the 31st December, 1984, and not on how they can be got rid off quickly and conveniently.

HON CHIEF MINISTER:

I think it is really extraordinary how out of a very simple matter so much is made by the Opposition. Again, perhaps a sign of their frustration. These history of this is very simple. There has been no pressure, there has been no pushing at all. I think it is fair to say that the union despite their opposition to commercialisation and despite their opposition to the closure, are not people entirely with their heads sunk in the sand and pretending not to see and that a situation even now of unemployment could get worse. That has been in the minds of the unions for a long time and the possibility of having in connection with the closure not with the commercialisation or with the cutting back in the private sector in other places as a result of the recession, this is a matter which has occupied their minds not only because of that but because despite our declared and the British Government's declared loyalty and I think we are abiding by it, to the Moroccans primarily to give them employment for as long as we can, the reality of the situation is that some Moroccans who have no prospects for employment cannot afford let alone those who have to travel, cannot afford their £7 or their £10 or their £12 a week in order to do that. What they do is they go away now perhaps it is more expensive unless they go through other means, they go away in their cheaper tickets and come 'picar' as they say, check in, and go away because it was cheaper for them to live in Morocco, come and collect their unemployment benefit and go back but against that they have to pay for the trip so that indeed applied to everybody. It arose markedly, of course, as a result

of the difficulties of the people in the Mons Calpe, first of all, because no redundancy payment is made to them. In fact, what they were paid most of them who were given three months notice, what they were paid was the statutory notice having regard to the years of service. That in itself would have been liable for tax. That payment because it is payment in lieu of employment, their wages, that would have been due to payment of tax under the PAYE. In order to help because they were given no redundancy payment by their employer who had employed some of them forty years or thirty years or whatever it is, because no redundancy was paid and in order to help them in their predicament, the Director of Labour decided executivevely to deem the 31st August when Bland coincided with their announcement the announcement of redundancies in the Dockyard, deemed them to have been given notice then in which case, of course, only one month, that is the month of November, was the month that was liable to tax because the others could be considered to be a gratuity. In fact, we managed to make it appear that in order to relieve the situation of the men who had been left like that and then the rest of the month was decided as the Commissioner of Income Tax has got powers, decided to put it into a year's assessment having regard to a year's assessment of which they were not going to work part of the year, that really after examining all the cases we were able to find that of that month in lieu of notice no tax would be deducted. In the first place; the unions made representations on this matter and, secondly, the President of the Moroccan Workers Association made direct representations to me on the matter to this effect. But he, as indeed the unions, he made a very simple and valid point. He said: "What we do not want if there is any prospect of employment, is to lose the chance to be employed again, we don't want that". The law provides precisely for that because if in fact the situation were better and if in fact the person having obtained his three months unemployment benefit to which he is entitled as a result of the contribution that he also had to make to the fund were to find employment, if he refunds the amount that he has taken for the period affected he will not lose any of his rights in the future. It is down there very clearly set out in Clause 2 at page 183 where it says: "Without any limitation of the conditions that the Director may impose under sub-section (3) and without prejudice to the provisions of the Immigration Control Ordinance it shall in every case be a condition of payment if the person subsequently on any day or days during that period of unemployment obtains employment in Gibraltar, he shall refund to the Director so much of the lump sum payment that represents the amount of unemployment benefit that would have been payable to that person if he had been unemployed on that date or days and that if the person being in Gibraltar during that period of unemployment becomes disqualified under section 2 or section 12 by reason of any matter specified, then his rights are preserved". That is really very much what happens in a different way to people who get a gratuity and leave their employment and desire to return back to work in the Government, certainly, within a year if they pay back their gratuity it is not deemed to be broken service for the purposes of their pension rights and gratuity. One other thing is that Members opposite think, some of them, that all these matters are rushed overnight and nothing has been done before that it was rushed because the union has told us.

Well, we have enough problems with the union on other matters so it isn't that we want to but in fact the unions can sometimes be right and if they are right we accept it and we act in accordance with what they consider to be in the benefit of their members and which in this case supported by the representatives directly, not of unions, but of Moroccan workers in Gibraltar who also have a right of saying in that capacity to decide what is wanted. I think, with the greatest respect to the legislators, they have a better right to know where their interests lie than the Hon Member who lives in London. Why didn't we ask the British Government to give us money for this? But we did ask the British Government, we did put the question of IMG meeting the initial costs of unemployment benefit, we did but it was turned down. In the negotiations we did put it to the British Government not just to pay them in advance it is the drain that it is going to have on the fund when everybody who is going to be unemployed withdraws, it is catastrophic and we did put this to the British Government. The urgency of the people in Bland would not have been so big if they had had redundancy payment as the Dockyard will give to those who become unemployed. The other thing, of course, is that if I know that for other Members it is a big IF, if the Dockyard is commercialised they will have employment for 500 people to start with and there will be a bulk of people unemployed at that time. Then the Leader of the Opposition said: "What about the work of the naval base or the Dockyard, all the work that is going to be done?" Unfortunately, that cannot be done until there is an agreement either with the unions or agreement is reached as to the fact that Appledore are going to be the managers of the Dockyard because they have been blacked and therefore the work that could be done and in fact the work that could be done because apart from the employment that Appledore may or may not provide according to their estimates, the structural work that has to be done is not going to be done by them. It is £17m worth of work which will employ a lot of people while the work is going on apart from other possible further public works that may become necessary for the services of which at this stage I cannot give any more details. And the other point that arises out of this is that the bulk of the people who are going to be affected in this are unskilled workers. The point made by the Hon Mr Bossano is a very valid one which one finds, if one deals with cases every day, in fact it is so rigid to some extent that I remember a case in which a Moroccan woman was employed as a cleaner to Cinemas and wasn't able to be employed as a cleaner in a private dwelling and this is done in order to try and maintain certain control in order to be fair to every one sector where there is unemployment to get the first jobs that arise in that line. It has nothing to do with the quota, it has to do with the quota in the sense that the quota specifies the categories of people and it has to do with the quota in that the quota can be lowered and can be upped according to the requirements and that I think works reasonably well. Of course, the March date is intended to cover that but Hon Members are going to vote anyhow against it so it doesn't matter for them but as Mr Bossano rightly said the proposals yesterday made by Members opposite on the Dockyard Bill that it should be by a statutory Ordinance and not by a private company did go much further in accepting the situation that is likely to happen in the Dockyard than a mere date which is thirteen weeks away from

the end of 1984. Mr Speaker, this is a measure which shows the extent to which the Government is trying to help people in a difficult predicament. It breaks no great principle, it is of a temporary nature, it is done to help people who want it done that way and it in no way breaks or breaches any principle of law which is established in the fund, it is purely an ad hoc measure, of course it is, and becoming urgent because of the difficulties of these people who have no residence here even to collect. What is expected of these people? How are they expected to collect their unemployment benefit? To pay every two weeks a trip because they don't live here, they either live in Tangier or they were living in the ship whilst they were working, to pay a trip to collect two weeks because that is the most that you can do, you can collect the thirteen weeks over sixteen weeks, to pay a trip every time you come to collect two weeks wages which is as much as perhaps half of one weeks wage? That is what it has attempted to do in a simple way in which the Attorney General has assured us in no way breaches any principles and which is in fact the purpose for it being brought here in this way.

MR SPEAKER:

Are there any other contributors? I will then call on the Mover to reply.

HON MAJOR R J DELLIPIANI:

Mr Speaker, let me assure the House that this Bill would not have been rushed but for the fact of the redundancy of the Mons Calpe. We have been working on this before the Mons Calpe at least a year we have been working on this so we were not making it because of the Mons Calpe this was a general thought as to how we could help certain members of our community because they have formed part of our community, some of them have been here for over twenty years, how we could help them. The rush has been because of the Mons Calpe redundancy and that is all, there was no other machiavellian way because we are thinking of political capital and of the next elections. Certainly, as far as I am concerned, I have never introduced any legislation here with any thought of being re-elected in my seven years as a Minister. I do what I think in my conscience is right and this, in fact, and I have no political ambitions, this Bill I presented to Council of Ministers. It wasn't the Council of Ministers putting pressure on me or the Chief Minister putting pressure on me, it was over a series of talks with the unions and the President of the Moroccan Association but not because the Chief Minister or any colleague of mine was putting pressure on me.

HON P J ISOLA:

If the Hon Member will give way. I understood from the Chief Minister to say that representations were made by the President of the Moroccan Workers Association to him.

HON MAJOR F J DELLIPIANI:

Recently because of the Mons Calpe. I don't know, but there must be something wrong with this system, Sir, people don't hear or

or don't want to hear.

HON P J ISOLA:

If the Hon Minister would give way. This is why I asked that question. When the Minister says that he was under no pressure from Council of Ministers or anybody else, is he saying that the Chief Minister recently didn't tell him that the President of the Moroccan Workers Association had approached him to do this now?

HON MAJOR F J DELLIPIANI:

I said so at the beginning, I have been dealing for a year with the union and the Moroccan Association.

HON P J ISOLA:

It is the Minister who is not listening. He made a statement that he had no pressure from any Ministers or anybody and that he had presented it himself to Council of Ministers and all I was asking him is was it not the President of the Moroccan Workers Association who went to the Chief Minister, he answered to me, yes, he did, that is why I was asking has the Chief Minister not told him of this and that something ought to be done, that is all.

HON CHIEF MINISTER:

I think I ought to explain this, Mr Speaker, if I may. I said that in the course of dealing with the redundancies of the Mons Calpe I told Mr Netto and subsequently I saw Mr Sastri but Mr Sastri is in touch with the department and he told them he had been to see me. I didn't exercise any pressure, I just understood the point and perhaps they think they get satisfaction in coming to see me but they get no more satisfaction than they get from the Labour Department who is looking after the matters every day.

HON MAJOR F J DELLIPIANI:

The rush has been because of the Mons Calpe, I will insist again, otherwise we would have taken far more time in presenting the Bill.

MR SPEAKER:

And you will not give way, will you, to anyone else.

HON MAJOR F J DELLIPIANI:

I will not give way and that is why I apologised to the House when I started my speech. There is one basic principle that I want the House to realise, in fact, there are two. But the one which is most important is that this measure is not being forced on non-EEC members. It is the prerogative of the non-EEC member who becomes redundant through no fault of his own or because it is to the benefit of the community that he should be offered redundancy terms on his own, if he so wishes he can be paid the lump sum.

The onus is still on the non-EEC member and that I think covers the drastic situation that the Hon and Gallant Major Peliza said about the chap going to Morocco with all this money and all the rest, it is an individual's decision to decide whether he wants to stay thirteen weeks here and provide for two households, one in Gibraltar and one in Morocco, or whether he takes it in a lump sum and he provides for one household in Morocco whilst the situation in Gibraltar is not conducive to provide him with immediate employment. But I go further in my relations with the Moroccan Association and its President. I have always asked the Moroccan Association that they should always have a list of members, where they live and with their particular trade so that if there is ever an upsurge in our economic situation and in our employment situation they should have preference to have their jobs back because I think whenever we talk about non-EEC members and especially from Morocco, we owe them some loyalty. I go as far as that. It is not a question that we want them to go out, it is a question that if they want to go out they can go out but their names will be kept by the Moroccan Association and if there is an upsurge of employment and there is room for them to be employed they will be the first ones to be employed and I hope any future Government will have that same kind of loyalty towards the community that helped us out when we were in dire need of help.

HON W T SCOTT:

We don't dispute that.

HON MAJOR F J DELLIPIANI:

I am glad, just in case you do form the next Government. Mr Speaker, the other important principle of this Bill is to prevent workers making themselves redundant just to get the thirteen weeks unemployment plus their redundancy because, for example, if Gibraltar needs a welder and that welder happens to be a non-EEC member and he declares himself to be redundant and under the redundancy terms he says: "I want to be considered to be redundant", and he comes to the Director of Labour and says: "I have declared myself redundant, I would like my thirteen weeks". We are not going to give him his thirteen weeks because all it would mean is that we would have to bring another non-EEC member to take his job. That is also covered and the quota will be gradually reduced and reduced and reduced. So it is not a question that there will be gaps there for somebody to come in because what we are controlling is as the employment contracts, we contract the quota system with it because we are not going to leave 500 permits when there are not 500 jobs but if the economy picks up and there is employment then we will increase the quota system and it is hoped that whatever Government comes into power or is in power will bear in mind the fact that there are other people with a stake in Gibraltar for over 20 years who should be given that preference and that is the way the Government has approached this question of unemployment. It is not a question that we want to throw anybody out of Gibraltar, it is a question that we want to help them out. And let me say another thing, that the Gibraltarians enjoy other privileges apart from being able to export their unemployment benefit to any EEC country, they have the

privilege of supplementary benefits which non-EEC members do not have. They have rent relief which non-EEC members do not have. I think it is only fair that the Moroccans and any non-EEC member should have this privilege and it is a privilege given to them, it is not that we are forcing them, it is a privilege that we give to them under certain conditions and I emphasise that it was only meant because of the unemployment situation that is growing apart from the Dockyard one. The partial opening of the frontier has already caused problems of redundancy, it has nothing to do with the Dockyard at the moment, it will have to do with the Dockyard in the future as the Hon Member Mr Bossano has mentioned with the 800 letters of redundancy. There were loopholes mentioned about commuters and all the rest but that is to be dealt with administratively by liaison with the Immigration Authorities and as my Hon Colleague has said, and I would support him in that, through Immigration control but this is a pragmatic approach to a problem that exists now in Gibraltar and we cannot talk of other principles, etc, etc and ex-gratia payments and taking it out from the British Government, we haven't been able to. The situation exists now and this is the only way we can think we can help the people if they so wish to be helped, we are not forcing it on anybody. Sir, 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 J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

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

The Bill was read a second time.

HON MAJOR F J DELLIPIANI:

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

HON P J ISOLA:

Mr Speaker, as you know we are voting against it so it doesn't matter to us whether it is taken today or tomorrow.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY GENERAL:

Mr Speaker, I move the suspension of Standing Order 30 in respect of the Criminal Offences (Amendment) Ordinance, 1983. In doing so I would like to explain the reasons why I am doing it. When the matter comes to Second Reading and the question of principle arises I will explain at greater length but I think, Mr Speaker, that the principle of this Bill as such, if I can refer to it in advance, is to carry into better effect the reprint of the laws and the various measures which are contained in there with one exception with which I shall deal in the Second Reading debate, are intended for that purpose. Some of those measures, Mr Speaker, are important measures, important in the sense that they deal with significant topics but the concern I have is to get this Bill before the House. I have no intention of dealing with those topics in detail before the next meeting of the House but the deadline for reprint material is the end of this year and so consequently I wasn't in the Second Reading proposing to go into detail on the particular clauses but, as I say, I am concerned to get the Bill to the House and I would, I would in that situation ask the House for its tolerance in agreeing to the suspension of Standing Order 30.

HON P J ISOLA:

Mr Speaker, I would just like to say that this is in connection with statute law revision and everybody has an interest in getting that done and completed on time so we certainly agree.

HON ATTORNEY GENERAL:

I am obliged, Mr Speaker.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

The Hon J Bossano voted against.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance (Chapter 37) be read a first time.

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

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

The following Hon Member voted against:

The Hon J Bossano

The Bill was read a first time.

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be read a second time. Mr Speaker, as I intimated a few moments ago, this Bill contains a number of particular provisions amending the Criminal Offences Ordinance which is the major statement of the Criminal Law of Gibraltar, it deals with all the major offences. The purpose of the Bill is to make a number of changes to that law in the context of the reprint of the statute law. By that I don't mean that the changes are purely of a technical nature, they are important matters, but they have come up and the proposals have come forward because in the course of looking at the laws of Gibraltar during the reprint the Commissioner and in conjunction with the Commissioner, myself, have had ideas on the Criminal law which we think should be put forward before the House. I don't in any way wish to ask Members of the House on such short notice to take on board and digest the particular provisions throughout the Bill because as we can see they deal with some quite significant matters but, basically, I can tell you in general terms that there are really three kinds of changes. One is in the case of two particular offences which are the offences of treason and murder, what the Bill is doing is to set them out in statutory form whereas at present, I should say, they exist at common law. It is not a black and white matter but I believe that the better view of the statement in the Criminal law is that it is desirable to state it in statutory form because not every member of the public knows what the common law is, they may have a commonsense idea of what the common law is but not every member of the public knows it and to find it you have to go through the legal text books whereas in the case of a statute anybody who is minded to can find it more readily or should be able to find it more readily if the statute is well drafted and there is a trend in

relation to Criminal law to state everything so far as possible in codified or in statutory form. In relation to each of these definitions I do not consider that we are changing the law but as I say we have adopted definitions which are used elsewhere and they are simply intended to state the law in statutory form. Having said that, I recognise that Members may want to study them and perhaps satisfy themselves, come to their own view upon it. The other thing the Bill does, the other major thing it does, is to introduce some new offences and these are basically offences which already exist in the United Kingdom and which we are proposing should exist here. There are three major groups; one is a group which relates to matters of dishonesty, for offences relating to dishonesty, and there we have adopted the United Kingdom provisions which are in force there and which at some time or other would certainly be proposed in Gibraltar and happen to have been proposed now because we are in the reprint exercise. There are two other matters which we feel as a matter of law reform should be put forward to the House and one is to carry the logic, as it were, of the European Court arrangement into full effect by making it an offence punishable in Gibraltar to give false evidence before the European Court and that is really just carrying into effect the machinery of the Court and is not innovated. The other one is to make provision for the protection of Euratom information, the disclosure of Euratom information. Apart from that, Mr Speaker, there are other minor matters which I can properly say I think are of a machinery nature. 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 J BOSSANO:

I am surprised that no Hon Member wishes to speak on it because I think this includes a lot of material which to my mind requires a great deal of thought. I opposed Standing Orders being suspended precisely because here I am trying to speak on the general principles of this Bill having had the Bill last night and apparently with nobody else giving a political view on the general principles of this Bill and I don't think we are here to legislate for the convenience of lawyers because it is tidy to have it all printed and ready by the end of the year. We may be applying a law which is on the statute book in the United Kingdom from 1351 but we are not in 1351 now we are in 1983. I am sure there are considerations now that might not have been applicable to 1351. I don't know what the death penalty existed for in 1351 but I am sure it existed for a lot of things other than what it is mentioned for here and I would have to have the benefit of somebody giving an opinion on the Government side since it is a Government Bill, as to why they think the death sentence should exist for some cases and not for others and why somebody being frightened is sufficient to put somebody in jail for seven years. Yes, frightening somebody is something that you get put in jail for seven years depending on who this somebody is according to this law. I certainly want to know what it means to obtain by deception dishonestly services and what it is the difference

between obtaining by deception something dishonestly and obtaining by deception something honestly. If we are now imposing prison sentences of six months on summary conviction or five years on indictment which I imagine is the difference depending on which Court is involved, am I right in thinking that, because people obtain services when they have got no intention to pay I am not sure if I understood this right, as I say, I am trying to give the House, shall we say, a layman's reaction to a Bill that I have had since last night and I am talking on the principles involved. Does it mean that if somebody, for example, goes and gets something on hire purchase knowing full well he is not going to be able to pay it because he hasn't got the means, does that expose him to either six months or five years in jail because he has taken on a commitment or obtaining a service? If somebody is in considerable arrears on electricity if he goes to the department and says: "Don't cut off my electricity because I am going to be able to pay in a week's time" and he is lying, is he obtaining a service by deception or not? As I say, Mr Speaker, I am not reading this piece of legislation as a lawyer because I am not and I have no technical expertise, I am reading it as a layman and I think that as a legislator when I vote on something I want to know what effects it is going to have on people, on citizens who are subject to this law and to say simply that by the application of common law we are now putting something on the statute book which effectively from the references, again my technical knowledge is limited in this area, but I imagine that in the margin it mentions Edward something or other 1351, it means that is when it was originally passed by Parliament. Well, let us face it in 1351 I wouldn't have got anywhere near Parliament so I don't expect to be guided by the same criteria in judging legislation as were prevalent in those days, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I fully appreciate the point made by the Hon Member. There were two courses that we could take. First of all, let me say that the death sentence for treason is despite all the great controversy that there has been in the United Kingdom, the death sentence of treason has never been repealed in England and, in fact, we were perhaps one of the first overseas territories who followed the Homicide Act in England which did away with the death penalty. In some territories, some independent and some not independent, the death penalty still continues, whether it is carried out or not is a different matter therefore there is nothing new in that except to adopt the new definition in the United Kingdom. There are one or two areas where I appreciate that a layman and in fact a lawyer would want time to look at it. We do want to get this quickly through because of the revision but that is no reason why we should bulldoze a measure of this kind. Having regard to what the Hon Member has said I think perhaps having given it a First Reading and knowing that it is going to go in this form more or less subject to anything that is derived from Committee Stage we would be happy to leave it at the First Reading stage and then take it through all its stages at the next meeting. We don't want to press this unnecessarily and we appreciate that some of it is somewhat technical and a conscientious Member may want to compare what the assaults on the

Queen were in 1842 and what firing a pistol at the Birthday Parade is today.

HON A T LODDO:

Perhaps someone could clarify for me on page 191, 4(d)(i) does this actually mean that a person who commits a murder if he is not prosecuted within three years he cannot be prosecuted at all?

HON ATTORNEY GENERAL:

It is a limitation on time for the bringing of a prosecution, it has to be prosecuted within a certain time. It is quite an uncommon provision for summary offences. At Committee Stage I will give you more background on why it should be so in this case because this is not a summary matter, obviously.

MR SPEAKER:

I understand that the Chief Minister said that we are not going to take a vote on the Second Reading, is that right?

HON CHIEF MINISTER:

I did say that we would deem it to have been read a first time and have the Second Reading and Committee Stage altogether at the next meeting.

MR SPEAKER:

I am afraid we are already on the Second Reading, it has been commended by the Attorney General.

HON CHIEF MINISTER:

Then we can adjourn the debate on the Second Reading to a subsequent meeting.

MR SPEAKER:

We will go on to Committee Stage and we are adjourning this debate on the Second Reading to a subsequent meeting. There is one more Bill to be called.

THE INTERPRETATION ORDINANCE, 1983

HON ATTORNEY GENERAL:

Mr Speaker, I would ask that this matter not be proceeded with at this stage. This is also related to the reprint of the laws and it has not been possible to print it in time and I don't wish to deal with it at this particular meeting.

COMMITTEE STAGE

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the House should resolve

itself into Committee to consider the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No 3) Bill, 1983, and the Non-Contributory Social Benefit and Unemployment Insurance (Amendment) (No 2) Bill, 1983, clause by clause.

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

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS AS TO NOTICE) (AMENDMENT) (NO 3) BILL, 1983

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

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

HON M K FEATHERSTONE:

Mr Speaker, I think with the greatest respect, my Friend the Attorney General on a matter of semantics should not deal in split infinitives and perhaps we might amend it to 'further to amend' rather than 'to further amend'.

HON ATTORNEY GENERAL:

If I may speak to that, Mr Speaker. Without being able to quote chapter and verse I think Gower, with the greatest respect, has rather modified his position on a split infinitive.

MR SPEAKER:

If you still wish to put in an amendment you can do so.

HON M K FEATHERSTONE:

No, we will accept it.

THE NON-CONTRIBUTORY SOCIAL BENEFIT AND UNEMPLOYMENT INSURANCE (AMENDMENT) (NO 2) BILL, 1983

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

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

The House resumed.

THIRD READING

HON ATTORNEY GENERAL:

Sir, I have the honour to report that the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No 3) Bill, 1983, and the Non-Contributory Social Benefit and Unemployment Insurance (Amendment) (No 2) Bill, 1983, have been considered in Committee and agreed to without amendment and I now move that they be read a third time and passed.

On a vote being taken on the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No 3) Bill, 1983, the question was resolved in the affirmative.

On a vote being taken on the Non-Contributory Social Benefit and Unemployment Insurance (Amendment) (No 2) Bill, 1983, the following Hon Members voted in favour:

The Hon I Abucasis
The Hon J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon E G Montado

The following Hon Members voted against:

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

The Bills were read a third time and passed.

MINISTERIAL STATEMENTS

HON CHIEF MINISTER:

Mr Speaker, as I told you this morning I have just received information which I think would be useful if I make a statement before the adjournment of the House on the question of Crown Land and Ministry of Defence Buildings in Gibraltar.

In the course of the statement I made to this House on 27 July, on my return from London following the negotiations on the Dockyard and land matters, I said that we had negotiated with the British Government a new agreement on the question of land currently held by the Ministry of Defence, that this agreement would be ratified shortly and that full details would then be made public.

I am glad to be able to announce that the new arrangements have now been set out in a formal despatch from the Secretary of State to His Excellency the Governor and I am now therefore in a position to give details of the agreement. The arrangements will come into force when the Governor sends a formal despatch signifying that they are acceptable to the Gibraltar Government. I have not seen the despatch but it is in the terms on which it had been submitted by us earlier on so I do not think there will be any difficulty in that.

As I said in July, one of the main features of the agreement is that reclaimed land will in future be treated in the same way as natural land. Members will recall that the Ministry of Defence have always made a difference and said that they have created the reclaimed land and wanted compensation. The typical example of that was the firm that was paid out of ODA funds to get the land on which Varyl Begg Estate was built. The relevant paragraph of the agreement reads as follows:

"All reclaimed land in Gibraltar which is at present held for Defence purposes but which the Ministry of Defence declares surplus to its requirements will be transferred to the Gibraltar Government under the same arrangements as at present apply to natural land - ie it will be transferred free of charge. For these purposes, reclaimed land will include underground chambers or tunnels constructed by the Ministry of Defence at their own expense".

I am sure the House will recognise the significance of the advance that has been made in this respect. The question of reclaimed land has been the subject of discussion over a long period of time and I am particularly glad that our efforts have at least been successful.

I also said in July that another main feature of the new agreement was that the future arrangements for payment to the Ministry of Defence for land and property transferred would be considerably more beneficial to Gibraltar than they have been in the past.

The new agreement deals separately with MOD surplus buildings which are of continuing value to the Gibraltar Government and those which are not.

In so far as buildings which are of continuing value are concerned, any such buildings which are over 60 years of age will be transferred free of charge; those under 60 years of age will be paid for by single lump sum payments calculated on the basis of the capital replacement cost of the buildings depreciated according to their age, at a fixed rate of 1 2/3% per annum.

For the purposes of these arrangements the word 'buildings' will be held to include pipelines and services as well as installations and structures on the sea-bed or foreshore built or installed by the Ministry of Defence at their own expense.

The transfer of surplus Ministry of Defence buildings which are of no continuing value to the Gibraltar Government will continue to be governed by the present arrangements, that is to say, they will not be paid for.

The Gibraltar Government will be the sole judge of whether or not a building is of continuing value to them in accordance with the existing definition, which is that such buildings have a long-term development use and would not need to be replaced as the sites are re-developed.

The new agreement further provides that, in the event of a dis-

agreement over the amount of the payment to be made in respect of a surplus defence building of continuing value to the Gibraltar Government, an arbiter acceptable to both sides will be appointed and his findings will be accepted as binding on both sides.

The Secretary of State for Defence will continue to be the sole judge of whether Defence land or buildings in Gibraltar continue to be required for Defence purposes. If, however, the Gibraltar Government requires confirmation of the continuing requirement for any particular property, a certificate to this effect may be sought from the Secretary of State for Defence himself.

None of the arrangements I have described will apply to freehold lands held by the Ministry of Defence for which they have not actually paid.

The House will recall that I also announced in July that agreement had been reached with the British Government on a new high level Gibraltar Government/Ministry of Defence committee, the broad intention being that the two major landholding authorities in Gibraltar should work together, in the closest possible consultation and, hopefully, in the best spirit of mutual understanding of each other's needs, to ensure that every single inch of land is used to the greatest mutual benefit.

Shortly after my return from London I submitted to the Governor detailed proposals for the Constitution of this committee, which is to be known as the Joint Consultative Committee, including proposals for its terms of reference and its composition. The response from London has been one of broad agreement with my proposals and we are now awaiting one or two detailed comments for local discussion and agreement.

I welcome this development as I am sure the House will. It means that we shall shortly be in a position to initiate discussions with the Ministry of Defence which will serve to advance and safeguard the interests of the two sides. While the issue of land has always been of importance to the Gibraltar Government, it has now become a vital one. The development of the economy assumes an even greater importance than in the past in the light of the proposed Dockyard closure. Our policies in this respect are well understood in London and I look forward to the establishment of the Joint Consultative Committee where the interests of the Ministry of Defence, which we for our part also understand, and those of the people of Gibraltar will be debated and reconciled.

Sir, the House is aware of the difficulties we have experienced over many, many years in attempting to obtain improved arrangements for the transfer of surplus land held by the Ministry of Defence and MOD buildings. In announcing the new arrangements, I wish to place on record my great appreciation of the efforts which have been made in this matter by General Sir William Jackson, who took a deep personal interest in pursuing it at all levels and at every opportunity; His Excellency Admiral Sir David Williams, who took up the cudgels from Sir William immediately after his appointment; Mr Richard Neilson, Deputy Governor, who

was engaged in some of the preliminary negotiations with the British Government; and Mr David Hull, Attorney General, whose advice on the legal and constitutional aspects has been of great value.

HON P J ISOLA:

Sir, may I just ask on a point of clarification two questions. Whilst we obviously welcome that an agreement has been made of some sort, I understood from the statement made by the Chief Minister in July that all these matters that he is now announcing today had already been agreed then. Could he perhaps point out in what areas there has been advancement from the position announced in his July statement to the House when he announced the Dockyard package? That is one point. The other one is, I notice from his statement that the Secretary of State for Defence will continue to be sole arbiter of land required by the Secretary of State for Defence. Isn't that in fact the position that it has always been and hasn't that in fact been the biggest stumbling block to the handing over of land? Has any arrangements been made in which there should be a subsequent or a higher arbiter or as a result of the Consultative Committee that what is required for Defence should not necessarily be the sole decision of the Secretary of State for Defence which, as I understand the position, has been the stumbling block throughout these years. In that respect there does not appear to have been any progress.

HON CHIEF MINISTER:

Of course there can always be attempts at belittling what has been achieved but in the first place the announcement I made were proposals that were being negotiated. The despatch was signed by the Secretary of State on Monday and it was in yesterday's bag so that really the development is that the negotiations have been concluded. I spoke about negotiations, I didn't speak about final. I started by saying, perhaps this is another case in which I should perhaps read the first paragraph again, when I said: "In the course of the statement I made to this House on 27 July on my return from London following the negotiations on the Dockyard and land matters, I said that we had negotiated with the British Government a new agreement on the question of land currently held by the Ministry of Defence, that this agreement would be ratified shortly and that full details would then be made public". It has now been ratified so that I did say that it was subject to ratification and when an agreement has been going on for a long time and it is ratified I think it should be made public. That is the first question, we have made an advance and the proposals then have become a reality now. Let me say something else to clear up and this has nothing whatever to do with the land that was required under the package in connection of all the land along the seafront from the North gate of the Dockyard to the Cormorant, that is a different thing altogether, that is an agreement that is coming to us and it is not subject to any of these requirements. That was dealt then by the Secretary of State, it was certified that they would be handed over, in fact, they were required that it was certified that they would be handed over. There are two variations from the position which has always been the case that the Secretary of State has to decide. First of all,

that we can demand a certificate by his hand which was not the case before, even though we argued people did sign on his behalf and, secondly, the point that I made about the question of the Consultative Committee which I have proposed in order to deal with these matters and that would be a high level Committee and once the terms of reference are finally agreed I will make the announcement but that envisages that out of that Committee will come out decisions which no doubt with the representatives of the high level that are going to be put in that Committee the Secretary of State will be continued to be represented. If an agreement is reached there there is now machinery in which to decide and not to have to argue with the Secretary of State through despatches or letters but to argue in Committee in a way in which both sides can see the needs of each other for land. In those two respects I think we have made progress.

HON P J ISOLA:

Mr Speaker, I am not trying to belittle what the Chief Minister has achieved or has not achieved. I just wanted clarification because although one welcomes the Joint Consultative Committee at top level, what I would have liked to have seen is that the final arbiter of the use of land in Gibraltar should have been the Secretary of State for Foreign Affairs jointly with the Secretary of State for Defence because the experience in these matters, and I am sure the Chief Minister will confirm this, has been that although the Secretary of State for Foreign and Commonwealth Affairs has been on the side of the Gibraltar Government, because the Secretary of State for Defence has been, in fact, the final arbiter, progress has been slow and this is why I was asking on that point I would have thought that there would be merit in the Government pursuing the question further that the final arbiter should be, in fact, the two joint Secretaries of State who together have responsibility for Gibraltar.

HON CHIEF MINISTER:

Well, that is one of the things that can be pursued in the Consultative Committee but over and above both, and I think it has been shown in these discussions, over and above both surely the final, final arbiter is the Prime Minister and I think we can rely on the fact that if we felt as we did at the time of the discussion on the Dockyard that we were not getting satisfaction, that she took an interest and she brought the matter to what we consider to be a successful conclusion.

ADJOURNMENT

HON CHIEF MINISTER:

I beg to move that this House do adjourn sine die.

MR SPEAKER:

I will now propose the question which is that this House do now adjourn sine die and in so doing I will call on the Hon Mr Bossano to raise the matter of which he gave notice yesterday afternoon, matters relating to the right to naturalisation.

HON J BOSSANO:

I won't be taking a lot of time and I prefer to bring it up as a matter on the adjournment at this stage because at this stage what I am seeking is to draw the attention of the House and particularly of the Government to the issue rather than to seek a commitment of policy where people would be required to vote for or against a change from the present situation. I will explain what I understand the situation to be and what I would like is to have either confirmation that my understanding is correct or in fact to have explained to me where I have misunderstood the situation. If the situation is as I describe it then what I am seeking at this stage from the Government is the recognition that that situation is anomalous and that a way of correcting it has to be found and that they will look into it. The position, apparently, arises unintentionally as a consequence of the new UK Nationality Bill. It did not arise apparently before because under the previous Nationality Bill the question of naturalisation by marriage to a British Subject was automatic, almost, anyway. I have had two cases brought to my attention, one is a Moroccan lady marrying a Gibraltar male and the other one is the other way round, where the husband is Moroccan and the wife is Gibraltarian. In both these cases it seems that in interpreting the eligibility to apply for naturalisation it has been suggested that only people who are not subject to Immigration Control can, in fact, apply. If I am right in thinking that only people who are already EEC nationals are not subject to Immigration Control therefore the applications coming from non-EEC nationals are in an egg and chicken situation in that they are free from Immigration Control once they are naturalised but that they cannot become naturalised until they are free. There is a reference in the letter that one of these persons - I don't want to make specific reference to any name - but there has been a reference in the letter saying that: 'under Section 18(2) of the British Nationality Act, 1981, the applicant has to be free from Immigration Control on the date of application'. And in the explanatory leaflet dealing with the question of how to go about applying for naturalisation, it says: 'On the date your application is received your stay in Gibraltar is not subject to any time limit under Immigration Law'. Any non-EEC national however long they have been here, this particular person has been here five years, but however long they have been here, have only been here on annually renewable permits of residence and therefore there is a time limit in every case of every non-EEC national. If my understanding of it is right it seems to me that we are giving a theoretical right to people which they are never able to exercise.

HON CHIEF MINISTER:

Before the Hon Attorney General replies on the legal matter, I am grateful for this opportunity because I feel very frustrated not only in respect of people one knows have been waiting for a long time for naturalisation but, generally, as you say, unintentionally because the British Nationality Act, 1981, deals both with UK Citizens and British Dependent Territories Citizens and because the conditions pertaining in the United Kingdom are such

that people whatever their nationality after four years residence become free from Immigration Control, the conditions that they have put here are put here even in respect of British Dependent Territories Citizens completely oblivious to the fact that here nobody is ever free from Immigration Control so long as he is not a British Subject and insofar as other people, other than those who get married to which I will refer in a moment, there is therefore an absolute prohibition from anybody ever being naturalised in Gibraltar at this stage whether he is here forty years, if he did apply before the end of 1982 when this came into force on the 1st January, 1983, and the Attorney General will bear with me that I have spoken to him about this on many occasions where we have to try and see whether by amending our own Immigration Laws we can adjust this without attempting to get the Acts of Parliament to be altered because then all hell is going to be let loose in the United Kingdom if they try to get into the British Nationality Act. Section 18(1) refers you to the Schedule and the Schedule says: "The requirements referred to in paragraph 1(a)" - which is subject to the requirements, the people who can apply - "are that he was in the relevant territory at the beginning of the period of five years ending with the date of the application and the number of days which he was absent from the territory if that period does not exceed 450 days", well that is alright, a period qualification is normal, "that the number of days on which he was absent from that territory in the period of twelve months does not exceed 90 days - and this is a difficult one - "that he was not at any time in the period of twelve months so ending subject under the Immigration Laws to any restrictions on the period for which he might remain in that territory". That closes the door completely to all applications for naturalisation in Gibraltar until something is done to interpret that in a way that suits us. With regard to the question of by marriage, I think there is a slight difference there. First of all, it gives the right to the husband of a British Subject which he didn't have before but, equally, in giving the right to the husband of the British Subject that he didn't have before it puts on the wife of the British Subject a burden that she didn't have before. So one gives the right and the other one takes it away and the conditions there are, as you have pointed out, anybody married, that he was in the relevant territory at the beginning of the period of three years or that, in fact, you cannot have a civil wedding to get your passport and then get married in the church to go away with a British passport as you used to do before because the spouse must reside here for three years before she can apply to become a British Subject and "that the number of days on which he was absent from that territory in that period does not exceed 270 and then 90 days for the last year, that on the date of application he was not subject under the Immigration Law to any restrictions in the period of which he might remain in that territory and that he was not at any time in the period of three years ending with the date of application in that territory in breach of Immigration Laws". There I think they have made an exception. I don't know what the difficulties are but I know of cases where when somebody marries a British Subject in Gibraltar, the spouse can get a subsidiary permit of permanent residence and if you do that and you have the three years qualification then you can get your nationality. When you cannot get it is overnight or quickly as it used to be done before. Both these things are difficult. I don't think that we

may be able to alter the substance of this requirement insofar as acquiring nationality by people who marry in the way in which it was done before because it is substantial but the other one is a more worrying one because unless we alter that or alter the Immigration Law to say that anybody who has been here for five years shall be deemed to be free from Immigration, whatever device is found, I have asked the Attorney General that it is urgent that we should do that because apart from the work that is entailed first of all, in getting the registration under Section 5 which we got, there is also a consequent amount of workload of mounting applications on which no decision has yet been taken so I entirely sympathise and as this is not a defined domestic matter I also want to raise in public my regret at the unfortunate result of what was a good thing in applying it. I think the great mistake was that the Schedule for naturalisation of a British Subject is exactly the same as the Schedule for naturalisation of the British Dependent Territories and on that we should have been asked for advice as a British Dependent Territory, it has nothing to do with Section 5 and registration as a full British Subject.

HON P J ISOLA:

Mr Speaker, I would like to say a few words on this. First of all, of course it is logical that if you are a British Dependent Territories Citizen and you are still generally known as British Subject, that the same rules should apply. I see some logic actually in the Schedule being the same for both, I see some logic in that but I agree it can be very difficult to change that. It seems to me from what I have heard that really the answer lies in our own Immigration Control procedures which are, in my view, unnecessarily harsh to some people. I think the first thing you have to do is to decide who actually resides in Gibraltar because there are people who reside in Gibraltar and live somewhere and I am referring really to the labour from abroad who are really lodgers. Then there are the people who reside under yearly permits of residence who I think are in a different category and it seems to me that there is a lot to be said for getting rid of a number of immigration controls that exist today. When you have people who have been here ten years working and they are on annual permits of residence and they have been here working ten years, why should they be subject to Immigration Control? Don't give them a right to reside but they are free from Immigration Control and then they should be allowed to apply and people who get married to Gibraltarians, I feel that we have a responsibility on that point and I think they should be free from Immigration Control when one of the spouses is a Gibraltarian.

HON CHIEF MINISTER:

That won't cure it.

HON P J ISOLA:

Well, it won't cure it but it will set it on the right road and the third thing, Mr Speaker, is that I think that there are a great number of applications for naturalisation, or whatever you like to call it, around. I think there should be some short public statement as to who need not bother to apply because it seems

to me that no one need bother to apply unless they are married to an EEC national.

HON CHIEF MINISTER:

And have been here three years.

HON P J ISOLA:

And have been here three years so I think I would certainly welcome clarification.

HON ATTORNEY GENERAL:

Mr Speaker, the short answer to the Hon Mr Bossano's enquiry, if I can express it that way, as to the state of the law is, yes, at the moment if you are non-EEC alien you are shut out from achieving naturalisation. The answer to the Hon and Learned Leader of the Opposition's question from a legal point of view as of course he has identified is that the way I think to approach the problem is through the Immigration Control Ordinance because as I see it the British Nationality Act sets out the basic concept of citizenship. One material question here is whether or not you are free from Immigration Control, namely, in this particular context we are talking about, and that although not a non-defined matter is a matter for Gibraltar and so I think that is the way in which to look at it. I don't think it is simply a legal matter, I think it is a question of deciding what Gibraltar wishes to achieve then

HON CHIEF MINISTER:

No, it is a legal consequence.

HON ATTORNEY GENERAL:

A legal consequence, indeed. What it is desired to achieve and then making the law fit that I may appear to be wandering from the point but I would like to talk a little more broadly about the British Nationality Act because it is a matter on which I personally have quite an interest. When that Act came into force it did things which must affect the concept of citizenship and nationality and Gibraltar is in an unusual position because it has two status, British Citizenship and British Dependent Territories Citizenship. But the first thing we have, I think, to look at in relation to the second citizenship was who has a connection with Gibraltar and Members may recall that earlier this year we proposed a Bill to the House which defined what was a connection with Gibraltar for the purposes of being a British Dependent Territories Citizen. Personally I think that is a very important thing because one can see quite readily that whereas the British Dependent Territories Citizenship context under the British Act is expressed without distinction to different territories the significance that definition in the Gibraltar Ordinance is that it starts to map it out in relation to Gibraltar's own context and I don't think it takes much imagination, if I may put it that way, to see that that has got longer term implications. At the time that Bill was introduced I recall making the point that there would

be other elements to be carried into full effect in consequence of the implications of the British Nationality Act. This is clearly one of them and as I have already acknowledged the circle is closed at the moment, you cannot get in. I think what needs to be looked at and it is not the only thing that is being looked at, may I say, there are other aspects of British Nationality which needs to be followed through but what needs to be looked at in this case is how one defines the category of people who might be eligible to attain the status of not being subject to Immigration restrictions because obviously one cannot just leave it wide open and perhaps without saying any more than that that is where one has to focus and I think it is a question of what classes of people might come within that and I think the Hon and Learned Leader of the Opposition has identified one particular class. I do note everything that has been said and I will be advising the Government on this as well as other aspects of the consequences of the British Nationality Act, 1981.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion that the House adjourned sine die which was resolved in the affirmative.

The adjournment of the House sine die was taken at 1.00 pm on Wednesday the 9th November, 1983.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6 DECEMBER, 1983

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eighteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Tuesday the 6th December, 1983, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammitt - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
The Hon D Hull QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary
The Hon I Abecasis

OPPOSITION:

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

The Hon J Bossano

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 Brian Traynor, Financial and Development Secretary, took the Oath of Allegiance.

HON CHIEF MINISTER:

Mr Speaker, Sir, I would like on behalf of the Government and on behalf of all Members, which I am sure will be echoed by the Members opposite, to give a warm welcome to Mr Traynor and to wish him well and hope that his not easy task, to which he has come now, will be a successful one.

HON G T RESTANO:

Mr Speaker, on behalf of the Opposition, I would also like to extend a warm welcome to Mr Traynor. He does come at a very difficult period in the life of Gibraltar: there is the Dockyard problem; the partial opening of the frontier, a very difficult time and I do wish him every success in his work ahead.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, may I thank the Chief Minister and the Hon Mr Restano for those words of welcome. I am very conscious of the difficult times and the problems facing Gibraltar and I only hope that I can play my part in seeking the way through some of those problems, and be of service to the community as a whole. I note that today is in fact St Nicholas' day, the 6th of December - I am sure Hon Members are well aware of this - who of course is known popularly as Santa Claus because of the generosity he showed towards children and gifts which he gave away. This is probably not an activity normally associated with the Financial and Development Secretary, who is used to laying supplementary estimates and taking money from those who perhaps feel they are poor rather than rich. But, St Nicholas did various other things: he rescued virgins in distress, which activity was seen quite a lot in the early days of the Church I gather, and also he worked many miracles. I am reliably informed that that is something which is certainly expected of the Financial and Development Secretary and I hope, Mr Speaker, that I live up to expectations.

MR SPEAKER:

May I join the Chief Minister and the acting Leader of the Opposition for the words of welcome. I feel sure that we will benefit by the contributions made by the Hon Financial and Development Secretary, and that he will enjoy the thrust of debate, as other Financial Secretaries have done. So, welcome to the House.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 18th October, 1983, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) The Charities Ordinance Report for 1982.
- (2) The Postal Voting Procedure (Amendment) Rules, 1983.
- (3) The Principal Auditor's Report on the accounts of the Gibraltar Broadcasting Corporation for the year ended 31st March, 1983, together with the comments of the Acting Chairman of GBC thereon.

Ordered to lie.

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

The Gibraltar Registrar of Buildings Societies
Annual Report, 1982.

Ordered to lie.

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

The Traffic (Taxi Fares) (Amendment) (No 2)
Regulations, 1983.

Ordered to lie.

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

- (1) The Employment Survey Report - April, 1983.
- (2) The Employment Injuries Insurance (Benefit) (Amendment) Regulations, 1983.
- (3) The Employment Injuries Insurance (Claims and Payments) (Amendment) Regulations, 1983.
- (4) The Social Insurance (Benefit) (Amendment) Regulations, 1983.
- (5) The Social Insurance (Contributions) (Amendment) Regulations, 1983.
- (6) The Social Insurance (Overlapping Benefits) (Amendment) Regulations, 1983.
- (7) The Social Insurance (Voluntary Contributors) (Amendment) Regulations, 1983.

- (8) The Family Allowances (Qualifications) (Amendment) Regulations, 1983.
- (9) The Non-Contributory Social Insurance (Unemployment Benefits) (Amendment) Regulations, 1983.
- (10) The Non-Contributory Social Insurance (Retirement Pension) (Amendment) Regulations, 1983.
- (11) The Housing Associations Regulations, 1983.

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 1983/84).
- (2) Supplementary Estimates Improvement and Development Fund (No 3 of 1983/84).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 11 of 1982/83).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 3 of 1983/84).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 4 of 1983/84).
- (6) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 2 of 1983/84).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.15 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.35 pm.

The House resumed at 6.00 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon and Learned Chief Minister, the Hon the Minister for Economic Development and Trade, the Hon the Minister for Housing, Labour and Social Security and the Hon and Learned the Attorney-General have given notice that they wish to make statements. I will therefore now call on the Hon and Learned the Chief Minister.

HON CHIEF MINISTER:

Thank you, Mr Speaker, this is a very short statement. In reply to Question No. 382 of 1983, I think this came from the Hon and Gallant Member, I said that I had given instructions for a memorandum to be prepared on the subject of Gibraltar's participation in elections to the European Parliament and that, once I had considered this, I would consult with Members of the Opposition. I added that I hoped it would be possible for me to approach the Opposition not later than the end of November and that we should consult Lord Bethell who, as Chairman of the Gibraltar in Europe Representation Group, has taken an interest in this matter in the past and who would be in a good position to advise.

The House will wish to know that the memorandum has now been prepared. I will be considering it within the next few days and will then invite Hon Members opposite to a meeting to discuss it as soon as possible.

MR SPEAKER:

I will now call on the Hon the Minister for Economic Development and Trade.

HON A J CANEPA:

Mr Speaker, in my reply to the motion moved by the Hon J Bossano during the last meeting of the House on the question of reducing the minimum qualifying service for entitlement to an occupational pension for Government industrial workers, I undertook to report back to the House once the financial and other implications resulting from a reduction of the minimum qualifying service from twenty to ten years had been completed.

I am happy to say that I am in a position to report back to the House now.

The effects of implementing the proposed amendment to the Pension Legislation have now been fully examined, having regard to all the points made in my reply to the motion, particularly the financial implications.

I am pleased to report that Government has accepted in principle the policy of bringing about an improvement in pension benefits for a sector of its employees who at present are at a disadvantage, thus removing the discrepancy between white collar and industrial workers.

However, in conceding the claim the Government would wish to examine with the Staff Side other areas of the Pension Legislation in order to minimise the financial and other effects.

Government has for some time now been considering the need to revise the existing Pensions Legislation in order to standardise pension benefits for all its employees. It therefore considers that, in accepting the principle of lowering the minimum qualifying service for industrial employees from twenty to ten years, this should be linked to a review of the Pensions Legislation under which all industrial workers and non-industrial staff would be brought together under the umbrella of a unified pension scheme.

Pension
The proposed Unified/Scheme would provide, inter alia, that:

- (i) the minimum qualifying service be 10 years;
- (ii) the maximum reckonable service be 40 years;
- (iii) the pension constant consist of 1/80 of pensionable pay for each year of service;
- (iv) gratuity on retirement consist of three times the annual pension;
- (v) gratuity on resignation continue as provided by the existing Pension Regulation 27;
- (vi) part-time service become pensionable;
- (vii) normal retiring age be 60 years with the exception of those grades governed by existing legislation (ie Police, Fire Brigade, Prison, etc)
- (viii) freezing of pension increases be removed;
- (ix) the Widows' and Orphans' Pension Scheme be incorporated into the new Pensions Legislation and extended to cover all employees, provided an option is exercised by all those who do not at present fall under its provisions;
- (x) extension of service beyond the age of 60 be allowed up to the age of 65 only in exceptional cases, in accordance with regulations to be established on grounds of public interest or hardship to be determined by the application of a "breadline formula";

- (xi) existing pension rights be reserved for officers in post on the date of introduction of the new scheme, and that such officers be allowed to exercise an option to convert to the new schemes;
- (xii) enhancement of service on retirement on medical grounds should continue to attract additional years of service;
- (xiii) facilities be given for the purchase of added years of reckonable service; and
- (xiv) the re-employment of a pensioner be subject to abatement of salary.

Sir, the Unified Pension Scheme described above is expected to produce the following results:-

- (i) non-pensionable officers with between 20 and 33 years service would opt to retain their present conditions and retire at 65 as their present retirement benefits would be slightly higher than those they would earn under the proposed scheme;
- (ii) all those non-pensionable officers with over 10 years service who will not have completed 20 years service under the present scheme by the time they reach the age of 65 would opt for the new scheme and derive pension benefits to which they would not otherwise be entitled;
- (iii) all those non-pensionable officers with over 38 years service by the time they reach the age of 65 would opt to join the new scheme as their benefits on retirement at 60 with 33 years service would be slightly higher;
- (iv) all new entrants to the new pensions scheme who would have been classified as non-pensionable officers would become eligible to slightly higher benefits on retirement but this would be greatly offset by the substantial savings in the retirement benefits of those new entrants who would have been classified as permanent and pensionable officers;
- (v) the majority of permanent and pensionable officers in post on the date of the introduction of the scheme would opt to retain their present conditions. The Government's liability in respect of their pension benefits would therefore remain unchanged; and
- (vi) retiring age for non-pensionable officers would progressively be brought down from 65 to 60, thereby creating opportunities for relieving unemployment within industrial grades.

Mr Speaker, the cost of implementing, on its own, the lowering of the minimum qualifying service for industrial employees now in post is estimated at £770,000 spread out over the next sixteen years. This figure is based on a life expectancy of 75 years and is calculated on data obtained in September, 1982. It would also represent for the future a recurrent long term liability which if not offset by savings in other areas, might prove impossible to sustain in difficult financial circumstances.

Government therefore considers that, in order to accede to the lowering of the minimum qualifying service as proposed, this must necessarily form part of a general streamlining of the Pensions Legislation, and we intend to undertake this in conjunction with the Staff Associations.

HON J BOSSANO:

I am not sure that I welcome it, Mr Speaker. I was merely asking the Government to introduce pensions after ten years' service. However, I take it that all I can do at this stage is in fact to ask questions for clarification, is that right?

MR SPEAKER:

That is correct.

HON J BOSSANO:

Is the Hon Member aware that the pension scheme that he has outlined follows quite closely the provisions of the UK Departments Gibraltar Pension Scheme?

HON A J CANEPA:

Yes, Sir.

HON J BOSSANO:

And is he aware that there the qualifying period is seven years?

HON A J CANEPA:

Yes, Sir.

HON J BOSSANO:

Doesn't he think that he cannot be giving very much away if he is taking in exchange for giving ten years practically everything that there is in another scheme introduced in 1980 which gives the same benefits and only requires seven years service to qualify? If the Hon Member has gone along the road of

following the UK Departments why is it that he has stuck to the ten years and not introduced a seven years as they have got?

HON A J CANEPA:

Mr Speaker, when consideration was being given by the Government to the introduction of a new scheme, between 1980 and 1982, we considered - when a view was formulated on the matter - that the financial implications on the introduction of such a scheme in respect of which minimum qualifying service would have been seven years, would have been unsustainable at the time when they were being considered. Events had already overtaken us with respect to the announced closure of the Dockyard, and the uncertainty was such that we could not consider that we could proceed along that particular road. But let me tell the Hon Member that there were many other provisions in that scheme, which I have not outlined here this evening, which had serious financial implications. So, the exercise that we have been involved with rather more recently has been to try to trim down the provisions of a new scheme to the extent that we are able to in order to make it manageable within financial terms. That is why I have made the policy statement that I have made, and that is why we would hope to enter into negotiations with the Staff Associations broadly speaking within these parameters. Merely to lower qualifying service from twenty to ten years would have the serious financial implications that I have outlined. Having regard to a scheme which we were working on in the past, which was based on the Ministry of Defence scheme, we have narrowed the parameters of that scheme to try and bring something which we think might be of interest to Staff Associations which will reduce the overall costs as between the figures that I have quoted and as between the savings that the Government as an employer, will obtain from other areas in which the benefits would perhaps not be as attractive as they are under the present scheme, for instance, the provision that each year of service should be 1/40 as against 1/33 as is the case now; the provision in respect of gratuity which is now 2 and 1/12 of the salary, whereas under the proposed scheme they would be 3 times the pension. These will provide savings for the Government which will offset the overall costs. So that has been our objective, to try and make it manageable within financial terms.

HON J BOSSANO:

Is it not true, Mr Speaker, that the Government initiated discussions with the unions a very considerable time ago, and they brought an expert out from UK, and then nothing more was heard about the revision? I welcome the fact that the Hon Member has come back so quickly with an answer, but is it not the fact that the whole thing was dead - and has been dead for years - and all of a sudden the Government seems to have a clearcut policy with a very comprehensive list of things in it?

HON A J CANEPA:

The Hon Member is right up to a point, and not up to another point. We did have a Mr McNeill who spent a great deal of time in Gibraltar and who carried out extensive consultations with, I would imagine, all the Staff Associations who have negotiating rights for employees of the Government. He produced a scheme, which was submitted to Council of Ministers. At the time, we felt that we liked the scheme in principle but it had to be put on ice. So, what I have done now has been to dust this off the shelves, and ask the officials who are concerned in the Establishment Division with these matters to try and produce something that we can wear and we would hope that Staff Associations could go along with, having regard to the desirability at this point, of maximising employment opportunities. What we do not want is to give notice to people and have elderly people out on the street without a pension. If by being able to afford a pension for those people we are able to sugar the pill and create job opportunities for others in the new circumstances in which we are going to be faced, I would imagine that that would be of interest to people in Gibraltar as a whole - including Staff Associations - and I hope that it can be viewed in that manner.

MR SPEAKER:

We must not debate.

HON W T SCOTT:

Mr Speaker, might I ask the Hon Minister, am I to take it that under paragraph 7(1) the minimum qualifying service be ten years and there is no further qualification given to that, that the ten years can be served in sections or need it be continuous?

HON A J CANEPA:

Perhaps one should explain that it is ten years continuous service.

HON W T SCOTT:

So in effect, an industrial employee might well be under Government employment for something like twenty years but in three distinct period of, let us say, six, six and eight years, in which case he would not qualify at all.

HON A J CANEPA:

Yes, not only wouldn't he qualify at all but the qualifying service must be served immediately prior to reaching retirement age. It is no good taking employment with the Gibraltar Government at the age of twenty, leaving at the age of thirty,

with a gratuity at the time, but expecting to get a pension, because that will not be the case. In fact, one of the advantages of the previous scheme that the Hon Mr Bossano made reference to was the question of transferability, which will not happen here.

MR SPEAKER:

I will now call on the Minister for Housing, Labour and Social Security.

HON MAJOR F J DELLIPIANI:

The Government will be asking His Excellency the Governor to promulgate the 1 January, 1984, as the effective date for the Matrimonial Causes Ordinance.

In this connection the Government have considered the setting up of a Marriage Counselling Service as part of the Family Care Unit of the Department for which I am responsible. However, the Roman Catholic Church is already taking steps to set up this service itself. They are at the moment recruiting trainees for counselling and the service will be in full swing by April next year.

This service will be available to all denominations in Gibraltar and it has been agreed that it will work in close liaison with the Family Care Unit.

In these circumstances, the Government does not propose to set up a service of its own, but will provide a measure of assistance to the organisation being set up by the Roman Catholic Church. The Church has asked Government to provide them with premises for the purpose so that they can operate from a neutral venue and Government have agreed to this in principle although a location has not yet been selected. In the meantime they will carry on with their counselling from premises at Church House.

Government has already agreed to give them support in in-service training, training of Tutor, office equipment, etc.

I am sure that I am expressing the sentiments of the House when I say that we all believe that a good family home forms the backbone of society.

It, therefore, only remains for me to wish the Marriage Counselling Service every success in the future.

HON P J ISOLA:

May I ask the Minister what financial involvement does the Government propose? Is it going to give financial support to ensure that the Marriage Counselling Service gets off to a good and speedy start, as fast as the Matrimonial Causes Ordinance?

HON MAJOR F J DELLIPIANI:

Mr Speaker, first of all, the Church wants a neutral venue so that it can cater for all denominations, because marriage counselling is done on a social basis and not on a religious basis. So, that will be partly financing of the location. Secondly, we are not providing financial support in in-service training because to be counsellor you have to do a number of hours of training every year to carry on your qualification as counsellor, so we will be providing money for that service. The third thing is that at the moment we are lucky we have a marriage counsellor tutor in Gibraltar, who is a lady. But, she might be leaving. We will also pay for the tutor to be trained so that they can work locally; plus we will be providing the office equipment once we have established the location, such as an answering service telephone, office cabinets, furniture, etc.

HON W T SCOTT:

Mr Speaker, while not wanting of the Minister too much at this embryonic stage of this particular council, am I to understand that the initiative of the Roman Catholic Church in starting this council does not preclude - and in fact will include - members of other religious denominations within that council? Otherwise, I can perhaps see a danger, where a member of a religion not of the Roman Catholic religion or in fact even an atheist or an agnostic, might not use the good services of such a council?

HON MAJOR F J DELLIPIANI:

The Catholic Church and the Church of England are in very close contact with each other on this particular service.

HON W T SCOTT:

Mr Speaker, if I may, I am obviously aware of what my Church is doing about it, I was not referring to that; I was referring perhaps to members of other religious denominations or agnostics or atheists.

HON MAJOR F J DELLIPIANI:

The service is open, it is a social service where religion is not used as the basis of counselling.

HON P J ISOLA:

May I say, Sir, that although we wish the Marriage Counselling Service every success in the future - we associate ourselves entirely with these remarks - I think it is a bit unfortunate that in the same statement that the Minister is announcing the implementation of the Matrimonial Causes Ordinance he should also be saying that the Government believes that a good family home forms the backbone of society.

MR SPEAKER:

No, Mr Isola, I am sorry. I will now call on the Hon and Learned the Attorney-General to make his statement.

HON ATTORNEY-GENERAL:

Mr Speaker, at the last meeting of the House I undertook to report on the RYCA Court action. Hon Members will recall that at that meeting I had said that in relation to the early part of the Government's claim, which is for an account during a period between December, 1974, and February, 1978, there was the possibility of a defence of limitation. The period concerned is from December, 1974, until April, 1976.

I am not yet in a position to give a definitive account. I am for the moment constrained as to how far I can go into this matter because it is sub judice, but I do want to say this: that it is possible that the Government may be able to go back into the period in question. It also may be possible to establish whether or not money could have been owing by way of an overpayment during that period. But I must also say that it is possible that loss could accrue to the Government because of the limitation during that period. That is what I wanted to bring to the attention of the House.

At present there is a process of discovery and inspection of documents in progress and there is a total time limit of 49 days from the 14 November, 1983, for this.

The matter will be the subject of a Treasury Minute. Members will appreciate that I am personally concerned to resolve this particular aspect of the matter as quickly as possible.

The House recessed at 7.30 pm.

WEDNESDAY THE 7TH DECEMBER, 1983

The House resumed at 10.40 am.

BILLS

FIRST AND SECOND READINGS

THE LANDLORD AND TENANT ORDINANCE, 1983

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to regulate the relationship between landlord and tenant and for matters relating thereto 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 now read a second time. Sir, as the title of this Bill says, it is to regulate the relationship between landlord and tenant and the way the Bill has been framed has been basically to take account of all the recommendations of the Select Committee, with a number of amendments which the Government considers should be made to that report. Basically, the whole aim of the Bill is to give a more equitable and more just relationship between landlord and tenant. Sometimes the Bill may be considered to be weighed in favour of the tenant, sometimes it may be considered to be weighed in favour of the landlord. It is obvious that where you have - as you have with landlord and tenant - two diametrically opposed holds, you are not going to get a Bill which is going to be satisfactory to everybody. I think I can give an example of that insofar that Action for Housing seem to evince the idea that every piece of property in Gibraltar should be rent controlled; whereas the landlord says, if every piece of property is rent controlled then you are stifling development, there is no possibility of a landlord getting a reasonable return for the investment he makes. Sir, this Bill basically tries to strike a reasonably happy mean between these two conflicting wishes of these two diametrically opposed types of persons. Sir, there will be a number of amendments brought at Committee Stage to this Bill. I will try and mention some of those amendments as I go through the Bill itself, but they will be tabled in the House, hopefully this afternoon, so that Members have ample time to consider these amendments before we actually get to the Committee Stage. I will go, as a layman, through the Bill taking some of the salient clauses but I leave the more technical aspects to a later intervention by my Colleague on my left, who is looking at it more with the legal viewpoint and, of course, we also have the benefit of the legal capabilities of the Hon Attorney-General. The first point about this Bill comes right at the beginning which says that it will come into operation on a date to be appointed by the Governor as notified in the Gazette. This will mean that there should be, as there must, certain transitional clauses and one of the transitional clauses - which is very important - will be the question of the moratorium which is due to expire at the end of January. An amendment will be made to the Bill which will be to propose that the moratorium be continued until a Rent Assessor has been appointed and other necessary steps can be taken to bring the Bill into force. So it does not mean that everything collapses at the end of January, but will carry on until the Bill itself becomes promulgated into law, and its actual date of operation is stated. Sir, the initial part of the Bill, Clause 2, gives the different interpretations. Clause 3 is a specific interpretation of who is a tenant. This gives the opportunity, as the Select Committee had suggested, and as the Government has amended, that the tenant should include his spouse and a son or daughter, and if there is no spouse, then it should be a

member of the family who has been living with the tenant for a period of time, which is stated to be some eighteen months. Clause 4, Sir, is a Clause under which in those certain instances in which a piece of property is owned by the Crown, but is leased to a private person, who then lets it out to various tenants, and although the Crown itself is not specifically bound by this Bill, in the instance where it is leased to a tenant, who then leases to other tenants, then those other tenants will be protected. It will therefore be reasonable to see that in those Crown properties which have been leased to private individuals for further leasing, then those private individuals will have full protection of the Bill. There is a small amendment, Sir, which will come in in Clause 5. We have actually stated 'the Surveyor and Planning Secretary', of course, this gentleman now has a new nomenclature, he is the Director of Crown Lands. I think I can move on through the next Clauses which are, as one might call, functional clauses, they are stating that there should be a Rent Assessor and what his powers are in the Rent Tribunal, to Clause 10 which brings in the question of domestic premises. The basic idea stated in this Clause is that all property erected on or before the 1st January, 1945, shall be covered by this law and shall be rent restricted property. I think it might be advantageous at this point to state that the aim of the Bill is to produce four types of property. The first type of property will be property built before 1945, whether it is let furnished or unfurnished. That will be a rent restricted type of property. If it is let unfurnished, then the rent will be the statutory rent as shown in Schedule 1. If it is let furnished, it will be exactly the same statutory rent, with a provision for the furniture provided, at an amortisation rate for that furniture of one-eighth of its value per annum. This, I think, to some extent, makes the situation that has been asked for by Action for Housing in which a Schedule of minimum furniture should be provided as really unnecessary. The position is going to be that, if you have a piece of property whose unfurnished rent, shall we say, as an example, is £10 per week, if it is let furnished and the person puts in the minimum of furniture, he is going to get the minimum of extra on his rent because the amortisation is going to be on that very minimum of furniture. If a lot of furniture is provided, then the landlord can charge a larger amount of rent on the proper scheduled rates. So, it is not an essential when you say: "I am letting this as a piece of furnished property", to state specifically the items that must be there. If the landlord wishes to put a lot of furniture in, he can charge a higher figure, if he puts a minimum of furniture, he will only be able to charge the minimum figure. The second type of property will be property which was built between 1945 and 1954 and which is let unfurnished. That type of property will be free of all restrictions. The third type of property is property built between 1945 and 1954 which is being let furnished. This will have a restriction on the actual rent that can be charged, this restriction being what the court considers to be a reasonable figure for such furnished accommodation. The last type of property will be

any property built post-1954, whether let furnished or unfurnished. That will be completely free of all types of restriction. So for recent property and for any new property that is built today or tomorrow or in the near future, it can be seen that there will be no restriction on it. This is the way the Bill can be taken as not stifling development. Under Clause 11, a most important amendment has to be brought in, which I think was something mentioned by the Hon Leader of the Opposition when he spoke on the actual report of the Select Committee. This amendment will specifically refer to Clause 2B in which we said that the Rent Assessor may, where the landlord has made substantial repairs, allow an increase on one occasion of up to 40%. The amendment will bring in that the repairs carried out to the dwellinghouse any time before the 1st January, 1986, must be other than in the pursuance of an abatement order. It is only right that if you have had to do repairs because of an abatement order you should not have the privilege of getting an increase of rent. This will take in the very valuable and very valid suggestion of the Hon Leader of the Opposition. I think the next Clause I would like to refer to is Clause 14. This is the Clause that we are putting in under which where a tenant sublets, he must give 50% of what he obtains from the sublet to the landlord. Clause 15, again, will have an amendment. This is the equivalent of the old Clause 7A and the amendment will say that the Rent Assessor's increase of the rent can be a rent which has been agreed between the landlord and the tenant mutually. Of course, the Rent Assessor will have the final right of deciding whether that rent which has been mutually agreed has really been mutually agreed or is perhaps, in his opinion, one that has been forced on the tenant by the landlord. An instance of this is that should the statutory rent be a figure of £X and the landlord and tenant go to the Rent Assessor and say: "We have made a mutual agreement and it is going to be £10X", the Rent Assessor may consider that £10X seems to be exorbitant. It might be that the tenant, in his desire to be able to obtain the property, has accepted a much higher figure than is reasonable and the Rent Assessor will have the final say in what it should be. One of the positions throughout the Bill has been the question of where infringements have actually taken place and penalties have been stated. In many instances it is felt that the figure of £100 penalty in the Bill is not adequate and it is Government's intention to bring in amendments that in many instances the penalty should be very substantially increased. One of the positions for such a substantial increase will be Clause 16, where a landlord fails to put aside the share of the rent that he receives into a Sinking Fund. If the amount to be put into such a Sinking Fund runs into several hundreds or even thousands of pounds, it seems invidious that if he does not do it he only pays the penalty of £100; he would be far better off paying the penalty than actually putting the money into the Sinking Fund. Therefore, it is going to be an amendment that that fine should be very substantially increased; and it will also apply to each time that he is taken to Court for failing to comply with the proper regulations. One of the points of this Sinking Fund is that the landlord will be permitted to use the interest from the

Sinking Fund for his own purpose without any let or hindrance. Clause 17 states the conditions under which increases of rent can be made. Clause 18 is the question of where justifiably a landlord wishes to terminate a tenancy: the Courts can give the ruling that alternative suitable accommodation must be made. The same also applies in the instance where a landlord wishes to get the tenant out of the property for temporary repairs. In such an instance the Bill will state that the fact that the tenant has moved elsewhere for a temporary period does not destroy his actual tenancy of the original property to which he would return after the repairs have been made. Clause 22 deals with the specific ways in which de-control can actually be carried out. An amendment will be brought to back-date the structural alterations or other specific alterations to the property to 1945, but there will be limitations on this. Clause 23 refers to the question of subletting. Subletting will not be permitted unless the landlord gives permission but such permission should not be unreasonably withheld. Clause 25 gives protection for that subtenant. Clause 26 is a very important one, which states that should for some reason the tenant give up a tenancy, if he has a subtenant then that subtenant should have the first option to taking over the new tenancy. This is a measure of protection for subtenants, which has not appertained hitherto, and which the Select Committee considered was a most important improvement. Under Clause 27, conditions are given for tenancies. One of the important innovations in this is that the landlord will have to insure the dwelling-house against loss or damage by fire. It also states that the tenant shall be responsible for all internal repairs other than electrical fixtures. That will be something that will devolve upon the landlord to keep it to a state of good repair. Clause 29 states that rent books must be kept and a rent book should be produced to the Rent Assessor should it be required. In the rent book, all the particulars of the tenancy will be put so that both the tenant and the Rent Assessor at any time can see the whole conditions of the tenancy. This is something that has been asked for for many years by many different entities and the Select Committee considered this was something that should be recommended. Clause 33, which to a great extent is a continuation of what was in the original Bill, emphasises more strongly that it shall be illegal to demand premium for granting a tenancy. This is something which has been done in the past, basically, clandestinely because from what the Select Committee was given to understand, landlords would demand a premium to be paid in cash in small notes, so that no trace of it could be found. As it has been in the law and as it will be in the new law, then I think the onus would be on tenants - where a premium is being demanded - to resist that demand and if necessary to take the necessary action against the landlord by going to Court and stating that a premium has been forced upon him. Where a premium has been forced upon him and has been paid, then it will be up to the Courts to decide whether that premium should be paid back. Part IV, Sir, deals with business premises. As was stated in the report of the Select Committee, the basic intention that

the Select Committee felt the Bill should show was that there should be a greater protection for tenants of business premises rather than a specific agreement as to the amounts that should be paid as rent. Therefore, as far as the amounts to be paid as rents are concerned, this can be done in two ways: either by mutual agreement by landlord and tenant; or, if such mutual agreement cannot be obtained, by application to the Court. The Court in this, as it will be throughout the whole of Part IV, should be the Supreme Court. The Supreme Court will have the benefit of the advice of the Rent Assessor who will be available as an expert witness. There have been claims by tenants that hitherto the only expert witnesses that have been available to the Courts have, in the tenant's opinion, been somewhat biased on the side of the landlord's - possibly because they were estate agents or what have you. But with the Rent Assessor there, this will give the opportunity of a completely impartial expert witness available to the Courts to give whatever assistance can be done. It will be an essential that the landlord or tenant must give the Rent Assessor any information that he would require. Under Clause 47, the order for a grant of a new tenancy by the Court, there will be an amendment at the end stating: "save as hereafter provided". This will be the subject of an amendment under which the tenant, if he has failed to make the request within the specific two months or four months period, will have another opportunity. At Clause 48, Sir, there is a very important amendment that has to be brought in. This appears in subsection 2A, in which the word 'after' in the third line should be completely changed; it should have read 'before'. The intention was that any landlord, if he wants to make a request to take a property for his own use, must have had the property five years before the period. This was an error which was inadvertently put in. Clause 51 states that a new tenancy should be for a period of not less than five years, and an amendment will be brought in stating that it should be for a term of not less than five years and not more than fourteen years. Government feels that some upper limit should also be brought in, rather than just leave the lower limit by itself. The question that I mentioned on Clause 47 will specifically apply to Clause 56, where there is the extension of time. One of the innovations that has been made is that the landlord must give fourteen days notice before the date of termination, a further copy of the notice, to the tenant. Very often, it has occurred in the past that the landlord has sent through the first notice and the tenant - for some reason best known to himself - ignored it and then the time has elapsed and he is not able to make a notice. He must be given a reminder by the landlord. A further amendment will be made that the Court may, in its discretion, grant the landlord or tenant an extension of time for taking out a summons under this part rather than for giving any notice. Many of the other Clauses are specifically similar to Clauses that were in the original Ordinance, but the next Clause I would like to refer to is Clause 68, the question of an assignment. Very often a tenant wishes to assign his lease to a third party and the Bill suggests that basically the landlord shall not unreasonably withhold his consent. However, the landlord may

withhold his consent under certain conditions, especially where the new tenant wishes to carry out some completely different type of business. One example might be if the landlord lets a piece of property to a tenant for a retail shop, and that tenant wishes to assign to somebody else who is going to put a bar in those premises. Then the landlord could reasonably withhold his consent. When there is an assignment agreed by the landlord it is usual that the tenant - on making an assignment - receives a certain premium from the incoming tenant. In the past, there have been instances under which landlords have said: "Fair enough, I will agree to this assignment if you give me X thousand pounds". Well, that has always been a rather arbitrary situation and what the Bill suggests is that the equivalent of two years of the annual rental should be paid to the landlord immediately before the assignment. This, of course, will be the current rental. Another provision in the Bill, under Clause 75, will be the action of the Court in granting a new tenancy. They will be able to make the rents payable under a new tenancy retrospective to such time as the previous lease actually terminated. What has happened in the past is that sometimes tenants, because of reasons best known to themselves, have been obstructive in obtaining a new tenancy - or even in application to Court - in the hope that a reasonable period of time will go by under which they would pay the old rent. Then, the new rent would come in after such a period. Well, the Court will have the powers to make the rent payable recoverable to the date of the termination of the formal lease, if they so think fit. One of the consequential clauses on the actual need for landlords to build up a Sinking Fund is that monies paid into this Sinking Fund may be free of income tax. Clause 81 will amend the Income Tax Ordinance to allow this to be done. As I said earlier, I think Clause 82 will be amended to allow the moratorium to continue until the Bill comes into force. With regard to the Schedules, the First Schedule actually states what is the statutory rent. Where it talks of a square being 100 square feet measured in such a manner and excluding such areas as may be prescribed, this measurement will be the same regulations as ascertained with the previous law. In the instance where, in Clause 2, there is a question of a bathroom having been provided, the onus will be on the landlord to prove that the bathroom has been provided earlier than the period of five years mentioned to get the lower rates. A very important number of amendments are to be made in the Fifth Schedule, which refers to where a landlord wishes to take back the premises either for development or because he wishes it for his own use. In such an instance, it is necessary that he should pay compensation to the tenant if he does not offer the tenant alternative premises. We have had representations on the tentative figures that I gave in the House of Assembly on the Select Committee Report, and we have considered these representations. To some extent, they were very valid. The main amendments that will be brought under Clause 5 will be that the net annual value of the demised premises, which of course should be the current net annual value, may be either the net annual value or 5/6 of the

current rent, whichever is the greater. It has been put to us that there are certain places in Gibraltar where a very high rent is being paid but the rates valuator has made a considerably lower figure for rating purposes than the normal figure which is 5/6 of the rent. I think we all know the area to which I am referring, where rents are very high but I understand the rates are lower. So an amendment will be brought that the multiplier should be either the current net annual value or 5/6 of the current rent, whichever is the greater. The multiplier figure itself will be increased. It has been represented that the tentative figures that I have put forward were rather low when they were considered against the figures that are used by banks and other entities when they are taking the value of a property for mortgage purposes. Therefore, the multiplier figure will be a higher figure rising from four times the net annual value or what have you, if it is not more than five years, to twelve times if it is over twenty years. At the same time, the period of additional notice - and I stress this is additional notice over and above the normal six months that must be given - will also in one instance be increased. All in all, Sir, this Bill will give a new picture to the relations between landlord and tenant. They are, as I say, and as the Hon Mr Lodo mentioned in his intervention on the Select Committee Report, based on equity and justice. I think that the new Bill, with the amendments, will provide a reasonably fair basis for relations between landlord and tenant and I therefore, 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:

Mr Speaker, I would like to take up the Minister for Public Works and the Chairman of the Select Committee, on his last few words on equity and justice. I think that if there is to be equity and justice in a Bill of this nature, and of the importance of it to all sections of the community, then one of the essential principles that should be followed is the good old democratic principle that plenty of time should be given for Hon Members of this House to consider the Bill in detail. Certainly, the Committee Stage of the Bill should not be taken during the sitting of this present House if we are going to talk about equity and justice. I wrote to the Hon and Learned Attorney-General about three or four weeks ago asking him that this Bill should be sent to Members of the Opposition well ahead of the meeting of the House. The only notice we have had, Mr Speaker, is the minimum notice required by Standing Order No. 30: "Printed copies of the Bill shall be sent by the Clerk to every Member seven days at least, prior to the First Reading thereon". That is all we have had, the least, for a Bill that has 80-odd Clauses - and we talk of equity and justice. Equity and justice also demand, Mr Speaker, that the

Bill should have been published. Again, the minimum requirements have been followed through; the Bill has been published in the Gazette, I presume it has, immediately before the meeting - which is last Thursday's Gazette, four days notice. I think the Standing Orders require that the Bill be published in the Gazette just before the House. So, you can see, Mr Speaker, that in trying to achieve equity and justice, the Government have given Members on this side of the House the minimum notice required. They told Members of this House that the Committee Stage was going to be taken at this Meeting and as far as the public is concerned, as far as Action for Housing is concerned, as far as landlords are concerned, as far as tenants of business premises are concerned, if they did not buy their Gazette on Thursday, they have been given four days in which to approach or lobby Members of this House. It is not equity and justice to follow that procedure, whatever the political requirements of the Government to push this legislation through any old how. It is impossible, Mr Speaker, to check this Bill against the Bill that was put alongside the Select Committee Report and against the Bill that was promulgated by the Government in July, 1981. This Bill has all the makings of a hastily drafted Bill, printed quickly - before the Meeting of the House - to achieve the time limits required. In other words, after I don't know how many years of consideration, we are now going to be rushed through a Landlord and Tenant Bill, Mr Speaker, which is very imperfect, and it is admitted to be imperfect by the Mover, who has been telling us of the various amendments that are going to be put before the House, notice of which we have not yet had - and we are going to have this afternoon - so we can be bamboozled into passing this Bill tomorrow. That is not democracy, Mr Speaker, that is rubber stamping Government decision, put hastily into a Bill, pushed before this House. I do not know what attitude we can adopt, we do not want to abrogate our responsibilities in the Landlord and Tenant Bill but it is absolutely impossible, Mr Speaker, for Members on this side of the House to give the consideration that a Bill of this nature has, especially, as at the same time that we got this Bill we got six other Bills on Tuesday all with the minimum length of notice - all because there were some political requirements to have the Bills at the meeting of this House on the 6th December. We get the Agenda of the House ten days before. I think that for the first time, Mr Speaker, we did not have a single Bill with the Agenda that was to be considered at this meeting of the House. Not only that, Mr Speaker, we did not even have the supplementary provision that was going to be sought from this House, again, for the first time ever, I think, by the Financial and Development Secretary. We got that a couple of days later. I am sure the Clerk of the House and you, Mr Speaker, will be able to confirm the supplementary provision that the Government was seeking from this House, which has always come with the Agenda, did not come with the Agenda this time. It was not ready either. How can we consider a meeting? The other thing that surprises me, Mr Speaker, is that the Hon and Learned Attorney-General does not explain to the House what the Bill is all about. I am very grateful to the Minister for Public Works for going through just parts of the Bill but there are a

lot of things that have been left completely in the air. Let me give one example, Mr Speaker: this policy decision of the Government to overrule the decision of the recommendation of the Select Committee, that you could only get possession of business premises if you provided alternative accommodation. The Government thought differently on this matter, and decided that there should be a right of landlords to recover possession of business premises on payment of compensation. This is a very controversial issue, to say the least. Members have been given a letter - I got it myself yesterday - from tenants of business premises protesting at these provisions. People have different views; a proper view can only be formulated after discussion. But let me say that, if the landlord is to get the right to obtain possession of the premises on the grounds that he wanted it for himself, there is a tremendous need to define landlords. The problems of this section have been, apart from tenants being evicted by landlords, that there have been sales of shares in companies which gets a landlord who pays for a property round the need of having to prove that he has been for five years owner of the property. By buying the shares of the company, he may buy a company that has held the property for twenty years; and by paying an extortionate price, possibly, for the shares of this company, he is no longer caught: he just pays the compensation. So all that has been done is putting the price up of getting possession of business premises. What I am saying is that once you allow premises to be obtained on the grounds that the landlord wants it for himself, there is a need to put restrictions so that this five year rule that a landlord must have been the owner of the premises for five years is a genuine one and that the beneficial owner is in fact the owner.

HON J B PEREZ:

If the Hon Member will give way. Surely, that same argument applies in cases of tenants who purchase a company which runs a business. That company may have been trading for twenty years. So, that tenant will get the benefit of the provisions in the Schedule both as to notice and to compensation.

HON P J ISOLA:

Yes, it is absolutely true, Mr Speaker, and that should not be so either. That is why I am saying that the Bill is inadequate. I am grateful to the Minister for bringing me that point but one thing does not cancel the other. Unfortunately, the tenant is probably taking advantage of it, is getting a lot of money freely, and the landlord is being unfairly done by. The landlord who is going to do this act is probably playing unfairly by a tenant who has been there a long time. The question is this: once you decide that there should be equity and justice, you must put in the Bill the provisions that will allow for that. I have taken this particular aspect of the matter because it is something new. All that is being done is to put in compensation clauses - which are now going to be changed - but not to tackle the root of the evil and that is whether possibly either the landlord or the tenant are taking unfair advantage of the legal position.

HON CHIEF MINISTER:

Would the Hon Member give way? I want to raise two points. First of all, on the latter one, that is not provided in the Bill recommended by the Select Committee and if it wasn't we are in the same position as we were if we had accepted the Select Committee's Report. I do not know, I am posing the question which one ought to look at. I would like to say just one word - because I would not like to lose the opportunity to speak on the merits of the Bill - on the question of timing, if I may, because I think that as Leader of the House I ought to explain. First of all, I agree that the time given was the time provided by Standing Orders. There were difficulties about printing and other problems which I need not go into myself, but they were not done deliberately to deprive Members opposite from time. Secondly, the Bill in itself is based on the Bill of the Select Committee which has been two years dealing with the problem, and they are only amendments to it. So, the bulk of it comes from the Select Committee's Report where Members of both sides of the House were represented. Thirdly, we had a full debate on this at the last meeting of the House, where indications were given of the thinking of the Government. Fourthly, the Committee Stage could well be taken much later in this meeting. There was no political convenience about having the next meeting, Friday or next week, whenever it is. The point is that the meeting of the 7th of December was decided when we last met, which was I think on the 18th of October and it is normal to have a meeting of the House reasonably before Christmas.

HON P J ISOLA:

It was November, only two weeks before the end of the month.

HON CHIEF MINISTER:

The 8th of November was a short meeting because that was the tail end of the meeting which started on the 18th of October. The last formal meeting was on the 18th of October and we adjourned for two short matters which were then dealt with in November. The meeting at this time of the year is regular, that is the point I am trying to make and there is no question of political convenience at all. The other meeting was too long and it was made into two branches. How far we go in this meeting will depend on the convenience and the time available and also of the convenience of the Members opposite to the extent that they can be met - as I have always done. I have other means by which we can make the most of the time in this meeting, by not proceeding with other rather heavy legislation which we can leave till the next meeting, such as the Sex Discrimination and things like that. But I may say I have put the Sex Discrimination Bill in the Agenda because we are under pressure from International Organisations - by which we are bound - that we must do something about this, and we have been under pressure for a long time. Thank you for the Hon Member giving way.

HON P J ISOLA:

Well, I don't know, when there is a direction to introduce legislation like sex discrimination, that is produced immediately and for something that really affects landlords and tenants in Gibraltar we get what is really minimum notice. That is the point that I wish to make. I think the rule should be that all the Bills that are going to be considered by the House should go out with the Agenda and not brought in hastily at the last minute. I am making the complaint today, Mr Speaker, because I think that you can agree by looking at your records that, during the last two or three years, what was an exception, in other words, to bring a Bill with very short notice, the suspension of Standing Orders and so forth, over the last three years has gradually become an accepted practice. On this side of the House we have been, I think, very good about it; we have been agreeing to short notice, we have been agreeing to the suspension of Standing Orders, we have understood the pressures on the Government. But what has happened as a result is that we have been taken advantage of, Mr Speaker. I mean, to get six Bills or seven Bills just seven days that Standing Orders require, that we should get a Landlord and Tenant Bill in that time, is not in accordance with principles of equity and justice and certainly not in accordance with principles of democracy. I just cannot see how the Government can suggest that this Bill should go for its Committee Stage and Third Reading with a Bill that has engendered so much controversy without giving an opportunity, for those who have been making representations, to examine the Bill itself clause by clause. That is what it should have; and also examine all the amendments that we do not know about but which are going to come, for the House to take a balanced view on it. Otherwise, Mr Speaker, I can guarantee that there will be a Landlord and Tenant (Amendment) Bill within two months of this Bill becoming law. I have no doubt about it. I have not, unfortunately, had the time, for other reasons, Mr Speaker, of going through it clause by clause because by sending it on Tuesday I did not receive it myself unfortunately until two days ago and it is impossible to go through it. But, by looking quickly through it - as the Minister was looking at the Bill - I can see that there is going to be a need for many more amendments than the one that the Minister has referred to. I think that it is wrong that, after waiting for two years since the moratorium was first put on, we should be rushing through a Bill of this importance without giving people an opportunity to look at the Bill as it actually comes out and to see whether in fact it is what the Landlord and Tenant Committee recommended. Mr Speaker, Section 3 of the Bill, the definition of a family: "In this Ordinance, unless the context otherwise requires, the tenant includes" - and then it has got - "the widow or widower of a tenant" - and it says - "the member of the tenant's family", because this Bill presumably repeals all previous Landlord and Tenant Bills. Then you go, who is the member of the tenant's family, and you are told that "sons or daughters of the tenant", and then you are told it also means that "where there are no such sons or daughters of school age, any other member of the family who has so lived with the tenant". So we are told that

a member of the family means a son and daughter and then we are told that if there is no son or daughter, any other member of the family. Well, what is the family? How do you define family? Then you go to subsection 3 and you see that a member of a tenant's family means anybody or any one of those members who is determined by unanimous agreement in writing between all of those members of the family. But what family? We are told the family is son or daughter or any other member of the family as defined in Section 2 and 3. I go to Sections 2 and 3 and all I see is any other member of the family when all the members agreed should be in. Well, what is family? That is the most important definition that is left out that should be put in. It should not be son or daughter, it should be nephew, niece, grandson, grand-daughter as in the English definition in the legislation. In England even a common law wife or a common law husband is also protected and that is the sort of protection there should be. I think there is a need to bring back the definition of family that exists in one of the Landlord and Tenant Ordinances that we are now repealing. I do not know which one it is, because there have been so many Ordinances but there is one between 1970 and 1983 that changed the definition of family. I am afraid that this is a very poor definition of family - just a son or a daughter. What I have found, in my experience, is that people have been thrown out of a house because the tenant has gone and got married or left or died and he leaves a brother and a sister and a sister-in-law and they are all thrown out. Those are the people we want to protect, I would have thought.

HON J B PEREZ:

Isn't the point covered in subsection 2 of Section 3? It says "where there are no such sons or daughters of full age at the date of the tenant's death, any other member of the family". So it is completely wide.

MR SPEAKER:

What he is saying is that he is not clear what the 'family' means.

HON P J ISOLA:

What we want is a definition of what a family is.

HON ATTORNEY-GENERAL:

If the Hon Leader of the Opposition will give way. He is not reading the whole of the definition. It is not any other member of the family, it is any other member of the family who meets the residential qualifications. It is not a circular definition. It is saying that there are two kinds of people who are members of the family. One are sons and daughters, and the other category is other members of the family who have a

residential qualification. The technique is that it is allowing an expression to have its ordinary common meaning in the statute. It is not only a common technique, it is also a very good one I think. One only defines matters when there is a need to.

HON P J ISOLA:

Yes, I appreciate that, but if we are going to say that English law applies, then say what a family means in England. There have been all sorts of judicial decisions. But what I thought the Select Committee said was, we want a sensible Bill written in the Queen's English which everybody can understand. We agreed but we said that that is an impossibility but still, if the Select Committee thought it and the Hon and Learned Attorney-General thinks it, fine. But what is a family? We are told that the expression "a member of the family" means son or daughter. Why say son or daughter? Why not just say the expression "family" means family, full stop?

HON ATTORNEY-GENERAL:

Mr Speaker, I don't want to interrupt the Hon Member on a matter which may be said at Committee Stage but there is a difference. The fact that it is a son or daughter makes the material difference. Certain consequences follow when there is a son or daughter but if there is no son or daughter, other consequences follow.

HON P J ISOLA:

Yes, Mr Speaker, but let me go to this business of eighteen months, which was brought out as something good. That is something bad too. Under the old law a member of the family who lived with a tenant just for six months was protected, now he has got to live eighteen months.

HON CHIEF MINISTER:

With respect, he was not.

HON P J ISOLA:

Family, defined in the previous law far more widely than it is in this one, included members of a family - by an amending Ordinance which I came across by chance, an Ordinance in our statute book which now disappears - in the same way that it had been defined in the English legislation. This is something that ought to be looked at. But, of course, if we are going to pass a Bill Second Stage, Committee Stage tomorrow, bang out, there is going to be a need for an amending Bill from the Hon and Learned Attorney-General. Mr Speaker, on the question of the protection that is being given, we think that the eighteen months period should be reduced to six months and we will so move. In the case, for example, of an elderly

person, somebody may have to give up a flat for which he is paying a lot of rent to go and live with an elderly aunt or an elderly grandmother to look after her. To say he must have been living eighteen months before he can acquire a right seems to us to be inordinately long.

HON CHIEF MINISTER:

That was one of the recommendations of the Select Committee.

HON P J ISOLA:

Yes, I know, but until we see the actual Bill we do not know what is going to come out in the wash. So, as I have said, there is a need for the definition of family. The point, I don't think has been brought in, under Part I of the Act, is the question of protection for second generations. Has there been provision for that made? Again, I would ask the Hon and Learned Attorney-General when we are talking of a second generation, are we talking of the second generation from now or are we talking of the second generation from the time the Landlord and Tenant Ordinance was passed?

HON CHIEF MINISTER:

From now.

HON P J ISOLA:

Then we are going to give protection to two generations from now. So, no doubt a future legislation will be able to extend that protection in thirty or forty years' time. That we agree with, the impression I had before was that the second generation protection only came from then. Mr Speaker, the question of the statutory Sinking Fund. There is a need, I think, for an amendment unless the intention of the Government is that the landlord should pay into the Sinking Fund two years at 33% from the time it was first let, which could be 1940, it could be 1909, and thereafter 15%. If you look at Section 16(2), Mr Speaker, it says that "the landlord shall pay one third of the recoverable rent received by him from the letting of the dwelling house, during the first two years after it is first let, and thereafter 15%". Well, all houses will have been let. If it is since after it is first let this could take us back to 1900. Mr Speaker, so it should really be during the first two years from the commencement of this Ordinance or from the time it is first let. I think that is an important amendment that should be brought into this Bill unless, perhaps, Government wanted a Sinking Fund to be set up immediately with a lot of money in it.

HON CHIEF MINISTER:

That was also envisaged in the Select Committee's Report. The only thing that has been altered is the sum, the actual contents is exactly the same as in the Select Committee's Report. I am sure it is looking to the future and not to the past.

HON P J ISOLA:

Yes, that is what the Select Committee says but that is not what the law necessarily says. That is why there is a need to look at this Bill very carefully and we have not had the opportunity to do so. There is no provision, I notice - still on private accommodation - under which in pre-1945 accommodation the landlord and tenant can together agree the sale of the flat to the tenant. I think that is a pity. If the situation arises where a tenant would like to buy his flat from the landlord, it should not be a criminal offence for the landlord to sell it to him, if it is by agreement. I would have thought there was a lot to be said about allowing that situation, it should not be illegal or an offence. This Bill seeks to protect the tenant so if the tenant does not want to buy, that is fine, he does not have to buy. Mr Speaker, there is another problem that is not dealt with in the landlord and tenant relationship in Part I and that is the question of empty accommodation. No, not Section 7A which has been brought back in again. In the case of business premises, if you have empty accommodation, you can be rated on the value the valuator decides to give. Should consideration not have been given in respect of Part I - and I think this has been the subject of representations of Action for Housing - under which, if flats are kept empty, there should be some sort of penal provision in respect of rates, twice the rateable value or something like that, to ensure that as much accommodation as possible is, in fact, taken up.

HON J B PEREZ:

On a matter of clarification, Mr Speaker, because I intend to reply to some of the points. Was the Hon Leader of the Opposition asking for confirmation or for somebody to point out where the equivalent of the old Section 7A is in the Bill?

HON P J ISOLA:

No, I know that, thank you. A landlord might say: "Well, I am not interested in letting my house at all even with the Rent Assessor or whatever". Should we not discourage landlords from keeping or holding empty accommodation? I think that was a recommendation I read, and I think that a good point was made. It could be done by a penal provision in respect of rates that they should pay. Can I go, Mr Speaker, to Section 27? I think that there is a need to clarify this question of insurance of dwelling houses because I do not know whether the Government is putting the responsibility on the landlord to, in fact, insure the contents of the flats as well, against fire.

HON K K FEATHERSTONE:

It says the dwelling-houses, it does not say the contents.

HON P J ISOLA:

I know it does not say contents. Mr Speaker, but what would normally happen, I would imagine, is that the landlord who has five flats in the building insures the building against loss by fire. He does the building. If he insures the flat or anybody insures the flat, usually the policy includes contents. I think that that should be made clear because if it is the intention of the landlord to insure the contents of the flat in an amount so be it, but if it is not the intention, it should be excluded. Otherwise you will get a fire where the tenant will believe that it was the landlord's obligation to insure. I would like to ask, now that I am on that section, maintaining all electrical fixtures in good repair - the landlord's responsibility. Does that mean replacing bulbs that are fused or things like that? I would like more explanations on that. Then, what is an interior fixture and fitting? Are you talking of interior fixtures known in law as landlord's fixtures or are you talking of landlord's and tenant's fixtures? Although this is being done in simple English, unfortunately, simple English has also been interpreted by the Courts and 'fixtures' means landlord's and tenant's fixtures. So is the landlord to maintain the tenant's fixtures as well as what is known as landlord's fixtures? Equally, Mr Speaker, for fittings that requires clarification by an amendment. The provision for rent books is, I don't think, a new provision to the law and it is a very good idea but I am sure that there are going to be a lot of landlords and tenants before the Courts for not maintaining a rent book. But that is something that we would obviously go along with. It is a desirable aim and let us see whether it is in fact kept up. On the question of controlled accommodation, the Select Committee made a recommendation that all accommodation built before 1954 should become controlled. The Government has now decided that the control should only extend to property built before 1945. I am not quite clear, Mr Speaker, why if you justify an advance from 1940 to 1945 as being reasonable, it is not reasonable to justify an advance from 1940 to 1954. I would welcome some information on that because this does, Mr Speaker, alter the picture rather dramatically from what the Select Committee recommended. Mr Speaker, I would also refer to the Rent Tribunal composition, which I think is the same as in the Select Committee Report. I think that having seven people in the Rent Tribunal, Mr Speaker, although I know there is provision for a quorum of a lesser amount, committing the time of seven people to decide whether a particular flat should be upgraded or downgraded is a practical impossibility in terms of time, cost-consciousness and cost-effectiveness in Gibraltar. The Government does not have seven people who can spend - and they are going to have to spend very long periods of time on these cases for no remuneration. Again, I would say here that, although it is the Government's policy not to pay people who serve on committees, I hope that in the Rent Tribunal they are

going to pay the people for attendances as judges - because that is what they would become in the Rent Tribunal. Otherwise, it would not work, Mr Speaker. The Government has had problems with the industrial tribunal, and think of the few cases they have had in the industrial tribunal and the problems they have had in getting cases to trial. What would be the position, Mr Speaker, when you have almost 1000 applications for the Rent Tribunal? I predict figures of that order, with an Action for Housing that appears to be very active judging from all the letters they write to us and everything else. The Rent Tribunal's work is going to be very heavy as indeed that of the Rent Assessor. Mr Speaker, has there been any advertising for the post of Rent Assessor yet? I notice the Minister, when moving his motion on the Second Reading, said that the law will not come into effect until a Rent Assessor is appointed. Well, I think that is something that should have gone out for advertising, Mr Speaker, ever since the Government announced its decision on the Report of the Select Committee.

HON J B PEREZ:

But the Bill may have been thrown out.

HON P J ISOLA:

The Hon Member knows perfectly well that nothing that is brought by the Government is thrown out in this House. That does not arise from any affection on our part to the Government, it arises from the simple mathematics of the situation where the Government has eight Members plus the Financial Secretary and Attorney-General to prop them up whenever one or two of their Members may be absent from the House, Mr Speaker. It is very alarming to find that there has been no statement made by the Minister as to who is the Rent Assessor, what are the qualifications they are seeking, what is the sort of salary they are going to have to pay them.

HON M K FEATHERSTONE:

It is all being looked at.

HON P J ISOLA:

Lots of things are being looked at, Mr Speaker, but the Bill is going to pass into law. I am concerned about that, Mr Speaker. I would now like to go to the Rent Tribunal clauses under which it says that there are going to be seven people appointed to the Rent Tribunal and a quorum is going to be any uneven number of Members not being fewer than three. This, Mr Speaker, is unusual in any administrative tribunal and I say it for this reason. If three people can decide a question, then you get the possibility of a situation that four people are not going to be there who hold different views to those three. Presumably it is going to be a balanced tribunal, representative of

interests or whatever. That is a dangerous situation. You could get hearings coming in in one tribunal sitting three people, the following day a different four could sit and make an entirely different decision on the facts of the matter. I think the Government should have another think on the Rent Tribunal. The Government should have, if it is going to be effective, a smaller Rent Tribunal, a quorum of only one less than what it is constituted and payment for the members of the tribunal on sittings on a sessions basis. Otherwise, Mr Speaker, this is wholly impractical and the Government is going to have letters in all the press, including those newspapers that are sympathetic - shall we put it that way - to the Government, complaining of ineffectiveness of the Rent Tribunal. It is a massive task that is being set to a Rent Tribunal. There used to be public spirited people who used to stand for election in the House, Mr Speaker, for nothing, but it is thoroughly impractical. Those same public spirited people now get £9,000 or £10,000 a year because it is only right that people who spend a lot of their time pro bono publico, should be remunerated pro bono publico. We do not ask civil servants to take a cut in their salary, Mr Speaker, because they are working for the public. A Rent Tribunal is going to have to deal with lots of applications, I mean, the Government don't know what they have let themselves in for here. I am not suggesting it is a wrong thing, it is a very good idea, but the Government should know that this means a lot of work for the Rent Tribunal, a lot of servicing of that Tribunal. To say seven members in the hope that there will be three available at any given time is, in my view, the wrong approach to this problem. I would recommend that the Government should have a paid Chairman, a paid Deputy Chairman, and the members should be paid on an ad hoc basis, based on sessions which they attend. Mr Speaker, let the parties who apply pay a fee because that is the position in the Courts. If you issue a writ, you pay £15. I am not suggesting that that should be the case, I think it should be a sliding scale but there should be a fee payable for application, however small, so that people should know that it is a serious matter. Mr Speaker, you will see that the Bill is being rushed through this House, without the administrative arrangements, without the back-up that the Bill requires. No Rent Assessor and as I said at the base of the rent report, there will be a need for much more than one Rent Assessor. One Rent Assessor will be bowled over in the first month. He will be taken to St Joseph's Hospital, I have no doubt about it. Mr Speaker, I would like to examine, of course, the provisions of Part III which is the provisions that deal with private accommodation much more carefully and look and expound on it much more carefully than I have been able to do because of the time limited to us. I do appeal to the Government that the Committee Stage should not be taken during the meeting of this House, it should be taken at a subsequent meeting of the House. If, for reasons best known to the Chief Minister, there isn't a subsequent meeting of the House, well, let us take the dissolution and then let us look at it again - because it is a very important Bill and it should not be rushed through the House. Mr Speaker, as far as business premises are concerned,

I wrote to the Hon and Learned Attorney-General about transitional provisions. I notice that the Government is going to amend a Section here that will allow tenants a second bite at the cherry, in the sense that if the landlord has sent a notice to the tenant terminating his tenancy, and he has had no reply from the tenant, he sends him a reminder. This is not a bad idea, and I think that anybody would act if they had got a reminder, and we agree with it. But it also says, Mr Speaker, there is an amendment to be brought to the House where the tenants are going to be allowed to apply to the Court for an extension of time in which to make their application for a new tenancy. We agree with that. But, Mr Speaker, again that requires a lot of thought to prevent abuse either way. I think that if you are going to give the tenant the right to apply to the Court for extra time because he has missed it or his lawyers have forgotten about it or anything else, of course there should be provision that the rent is backdated. There is provision for that I notice and I think that no harm is done provided the rent is then backdated to the date when he should have made his application or whatever. But, Mr Speaker, if this is a new order for tenants of business premises, is the Government going to amend the transitional provisions of the Ordinance to enable tenants who have been caught out in the old Ordinance and who are still in possession, the right to go to the judge and apply for extra time?

HON J B PEREZ:

The Ordinance, as my Colleague Mr Featherstone pointed out, will take effect on the date that is decided by the House and, therefore, everybody will have to start afresh from the date of the Ordinance. But it has retrospective effects, it must have.

HON P J ISOLA:

I think I agree with that but I am not sure, perhaps the Minister will take a note of it and reply. Let me say, Mr Speaker, that during the moratorium period there has been a lot of confusion. There have been differences of opinion as to what can be done or what could not be done as a result of the moratorium legislation. I have mentioned, Mr Speaker, the need to be thorough on the question of landlords who want it for themselves, to be thorough on the question of the five year period to ensure that the beneficial owner of the thing has been five years and it is not just a shell into which he has bought himself. What is causing us, Mr Speaker, on this side of the House, considerable difficulty is the question of eviction of business premises. I do not mind saying again, that because of notice, because of my own absence, it is not possible for us on my side of the House, to discuss the problems that come to tenants who are evicted and cannot find alternative accommodation even though they are generously compensated. My own personal view is that the compensation is generous, but I shall tell you that other Members on this side of the House do not consider it to be generous. To a certain extent I have got to bow to their judgement because they are

business people and I am not and this makes a difference. But again, I think consideration should be given on this all important issue of eviction. I recognise it to be a very important issue that can bring hardship to tenants and I also see it can also bring hardship to genuine landlords. It is very difficult to bring a balance. The best I can come up with personally, at such short notice, is to again say what I said on the Report of the Select Committee that consideration ought to be given to a third alternative. We have got alternative accommodation, compensation or a possible third alternative of granting an option to the tenant to purchase the business premises, at market value, for a lease of 99 years. In theory I don't know whether it will work out that way, if he buys the tenancy at market value, that should channel enough funds to the landlord who genuinely wants to set up a business to use that money for finding premises somewhere by sheer force of money. I don't know, but that is a possibility. I think that on this side of the House we would like to be fair to tenants, and we would like to be fair to landlords and that, Mr Speaker, is almost an impossibility. At the end of the day you have to come down probably on one side or the other. Mr Speaker, am I right in saying that there is no provision in this law that applies Part IV, Business Premises, to the Crown?

HON ATTORNEY-GENERAL:

It is in the preliminary part. Clause 4(3), Mr Speaker, if I may, it is applied to the Crown to the same extent as it does at the moment. What has happened is that whereas it formerly appeared in Part IV, it has now been brought forward to the preliminary provisions of the Ordinance.

HON P J ISOLA:

Well, I think I am right in saying that the provisions under which the Crown can recover property are more or less the same as was existing in the previous Ordinance. It is not my job to tell the Government, but I think that if they examine the provisions relating to Crown properties and the grounds on which the Government can obtain possession for public purposes, I think that the Government will find that amendments are required there. If, for example, the Government has been promised NAAFI, Imperial Court, how do the Government get possession of that? Either the Ministry of Defence passes the property to them with the tenants inside or the Ministry of Defence has to reprove those tenants. But this Bill applies to the United Kingdom Government. So, therefore, tenants of the Ministry of Defence will be able to invoke the provisions of this Ordinance. Mr Speaker, and if the provisions of this Ordinance protects them against eviction, they will be able to get the full benefit of that protection. I think the Government would be well advised, Mr Speaker, to look at the provisions in this Ordinance in relation to public properties - especially when one considers that most of the land that the Governments gets, it gets from the Ministry of Defence to whom

this Ordinance applies. I know there are certain sections that appear to deal with the matter, but I think that if they are looked at closely, the Government could well find the Landlord and Tenant Ordinance to be a constraint in getting properties required for public purposes and for development from the Ministry of Defence. The appeal I would make to the Government, Mr Speaker, in the interests of having one Ordinance, as was said by the Select Committee, that contains the whole of the landlord and tenant law in simple English, in the interest of that that we should have one Ordinance today, and not one Ordinance today, amended in February, amended in April, amended in June and amended in July of next year. That is not what the Select Committee recommended. Therefore, in finishing my address which necessarily has to be a short one, Mr Speaker, because I have not had the opportunity at all.

MR SPEAKER:

Has it been a short one?

HON P J ISOLA:

It has necessarily had to be shorter than it would have been because of the inability of having a moment to consider this, comparing it to the two different draft Bills that we have had on the new Landlord and Tenants Ordinance. I would appeal that the Committee Stage is not taken by the Government at this meeting of the House. The custom has disappeared from the proceedings in this House, a very real custom in the old days - and by the old days, I am only going back a few years - in which Committee Stage of Bills was always taken in the next meeting of the House unless the matter was really urgent. That custom should be followed in this case. If what we want is one Ordinance, then everybody should have an opportunity to look at the Bill, including the Government, during the course of this motion today, we have been told of major amendments that the Government is proposing to this Bill, and they are major amendments of which we are going to get notice. It is totally wrong, Mr Speaker, and totally against the very principles of equity and justice that the Minister for Public Works was referring to, that this Bill should be taken through all its stages at this meeting of the House.

HON M K FEATHERSTONE:

I never said that.

HON P J ISOLA:

Well, no, but it is in the Agenda.

HON M K FEATHERSTONE:

I was referring to it.

HON P J ISOLA:

I know when the Minister was talking he was talking of equity and justice, and what he meant by it; but what I am saying is what is generally meant by it, and the democratic principle that everybody gets full opportunity to look at the Bill, to discuss the implications to read once again all the representations that have been made with regard to the Bill, both to Members of the Government and Members of the Opposition, and to be able to form a fair and just and an equitable view on this Bill. Unless we get these assurances, we certainly cannot support the Bill.

HON J B PEREZ:

Mr Speaker, first of all I think there is a lot of merit, and I agree with many of the things that the Leader of the Opposition has pointed out in his contribution. I think there is merit on the question of time; there is merit in the suggestion that there are substantial amendments which are being proposed and will be put in at the Committee stage. There is merit on the rushing through this Bill, which is of fundamental importance, and I would venture to say, will affect nearly the whole of the community. But there is one point that I must put forward on this: I do not think it is correct to say that this matter has just been brought to the House only a week ago. I agree the Bill was in fact circulated only 7 days ago, but the main contents of this Bill was published at the time of the Report of the Select Committee, and that is quite some time ago. So really, most of the contents in this Bill before the House at present was to the knowledge of all Members in this House. I therefore wish to take the opportunity of counting that out, and of giving the Government's policy on the whole question of Landlords and Tenants, with particular reference to the Bill before the House at Second Reading. Before doing so, let me say that there have been very valuable points made by the Leader of the Opposition, I have undertaken to reply to most of them. I think the main one he asks is the question of whether the Bill is intended to have a retrospective effect. I can quite categorically say that the answer is yes. It must have a retrospective effect. Otherwise there was no point in saying that the moratorium was being passed because the House of Assembly was debating, and there was a Select Committee which was reviewing the whole question of landlords and tenants. The Bill, when it becomes law, must operate retrospectively - because otherwise it will be very unfair and very unjust on both landlords and tenants. I am very impressed with one of the ideas put forward by the Honourable Leader of the Opposition when he spoke of cases where landlords wish to re-occupy premises on the grounds that they want it for themselves, with Mr Isola's idea that we ought to consider not only the question of suitable alternative premises and/or substantial compensation, but whether the tenants should be given an option to purchase the business premises. I think that particular recommendation requires further consideration, and is - in my own view - of substantial merit. I must point out also, that although Mr Isola said that he has not had time, it is incredible the

amount of comments he has been able to offer on the Bill, which, with respect, Mr Speaker, corroborates what I said before, and that is that this is not new. The Select Committee was formed over 2 years ago; we published a report well over 7 or 8 months ago with the Bill. So, many people have had chances to lobby people, and to represent in the House their own particular views. I have had representations from Action for Housing, from the Property Owners and many other people in Gibraltar - as I am sure every Member of the House has had. So, it is not a question that new ideas have been formulated now and are being discussed before the House. Now, coming to my own contribution on this particular Bill, I think it is useful to highlight the guiding principles that the Government has adopted, because these principles are those that were contained in the report of the Select Committee. I would quote from paragraphs 6, 7 and 8 of the Report of the Select Committee, because it is those principles which have been very conscious in Government's mind. Paragraph 6, Mr Speaker says, "Your Committee feels that it is essential to continue rent restrictions on residential premises as there is a need for stability and protection for tenants whose interests must be upheld. However, in protecting the tenants' interests, the interests of the landlords should also be taken into account. Landlords should obtain a rent which would permit them to keep their property in a good state of repair. At the same time, there should be a reasonable benefit for themselves. Furthermore, rent restriction should not be of so severe a nature as to inhibit or stifle development". Then paragraph 7, "Basic requirement is that housing in Gibraltar should be available primarily for the benefit of Gibraltarians and other permanent residents, and that this Housing should be available at reasonable cost. It is pertinent to note that no landlord who gave evidence before your Committee objected to the principle of rent restriction. Landlords' submissions were along the lines that present rents were inadequate and that some increase in rent should be permitted". Then paragraph 8, "Two other points on which your Committee agreed, are firstly that every effort should be made to encourage occupier ownership, with regard to private residential property, and secondly that, through Parts 1 and 2 of the Landlord and Tenant (Miscellaneous Provisions) Ordinance are not applicable to the Government of Gibraltar, the provisions should be used by Government as guidelines for their own housing policy as far as they are reasonably applicable". So those guiding principles from the Select Committee have clearly been followed by the Government in presenting this Bill. Let me remind Members that the changes which the Government proposed to make to the Select Committee's Report were in fact made public by my Honourable Colleague, Mr Featherstone, when we came to the House on the 8th November. So I do not think, with respect to my Honourable Friend Mr Isola, that he can say that this has caught him by surprise and therefore he has not had time. Surely the Report was available, the Bill with the Report was available, and you have Mr Featherstone's contribution as to what was Government's thinking as to the Report and the Bill. I think there are other principles which the Government have been very conscious of in considering this matter, apart from the principles that I have

already read out from the Select Committee's Report. The first one is Section 6 of the Constitution, which provides to the right to property. The Government has been very conscious of that because we did not want to enact legislation which could be held to be unconstitutional. That we had in mind, and at the same time we had to balance the rights enshrined in the Constitution as to rights to property, with the present shortage of housing and business premises in Gibraltar. We feel very conscious of trying to strike a balance between the right to own property and to do whatever you like with your own property, and the supply and demand situation which at present exists in Gibraltar. It is also fundamental, when you come to consider if the landlord is entitled to say he wants his property back for his own use, as to whether that landlord - as a prerequisite of obtaining possession - will have to provide suitable alternative accommodation and/or substantial compensation, and/or Mr Isola's suggestion of having to give the tenant an option to purchase. The other point that we have been equally concerned with is the question of economic development. If you have very restrictive legislation, in particular with landlord and tenant, there can be no doubt that that will not encourage development in any way. That has also been in the back of our minds. The question of the present state of disrepair of certain buildings in Gibraltar has also been in the minds of Government when we have considered the whole thing and tried to look at it objectively. Therefore, you have things like the Sinking Fund; you have an increase in rent, which is allowed to the landlord. He has got to put the money in the sinking fund, so that the landlord cannot say, "I have not got enough money to repair". We have been conscious of all these things. I think the most difficult thing is in fact to try and find a balance between these points that I have pointed out. You have to try and find the balance: certain things are in favour of the landlord, and other matters are in favour of the tenant. Whichever way one goes, you will always get one side saying, this proposal is weighted against the landlord - that would be the landlord's contention, whilst the tenants contention would be that it does not go far enough. We cannot please both sides. But, in my view, I do not consider the present Bill before the House to be in any way pro landlord; if anything, it is pro the tenant. I have heard groups like Action for Housing saying: "Oh this is a pro landlord Bill, the Government is totally unfair". I must say, with the greatest of respect, that people who say that have either not bothered to read the report properly, they have not bothered to take note of what my Honourable Colleague said on the 8th November in the House, and they are totally wrong in saying that. I will try and show why. Although, let me add, it is arguable that the Bill does not go far enough; that I accept. The Bill seeks to correct injustices which are now apparent, that have existed in the past; it seeks to block certain loopholes which have been available to landlords in the past; and I think it goes even further in imposing further and stricter controls on landlords - which surely goes in favour of the tenant. Let me start by saying that as far as the Government is aware, the Government is clearly of the view that rent restriction in Gibraltar, under the present circumstances, is fundamental, and is

something that must continue. So, having said that, why am I of the view, that if anything, this Bill is a pro-tenant Bill and not pro-landlord? I think this will become clear when I go over, in slightly more detail than my Honourable Colleague has done, the main provisions of the Bill. I would like, Mr Speaker, to divide my contribution by first of all dealing with the provisions relating to dwelling houses, and then I will go on to deal with the provisions that relate to business premises. Mr Isola asked, first of all, why did Government not accept the recommendation of 1954 which was contained in the Select Committee. With respect to even some of my colleagues who sat on the Select Committee, I think that there have been certain members who do not recollect why the Select Committee came up with the idea of 1954, let me explain. The Committee felt at the time that we must have rent restriction, and thought that it would be an idea if properties over 30 years of age should be rent controlled. That is why we came up with the magic year of 1954, because the idea was that if you start your control in 1954, you are now in 1984. Property whose age is over 30 years automatically would become controlled. In 5 year's time you would be controlling property of 1959. I think that there have been many people who have forgotten that. I must confess that, although I was a Member of that Select Committee and I signed the Report, I honestly have changed my mind on having to control all properties after they are 30 years of age. I am now convinced, which I was not at the time, that that surely would not be in the general interest of the community, and would without a shadow of doubt stifle and curb development. For example, a property developer builds a building with flats. He will find it quite difficult, I think, to be able to sell off those flats even in a case of 999 year leases. I am distinguishing the developer and the investor, the one who buys the flat to let. Taking into account the very expensive building costs that there exist in Gibraltar and the price of land, instead of having money in UK in Gilt Edge - like we know there are many people who have the money there - we are doing our utmost to try and get them to bring that money back into Gibraltar by way of tax free debentures and free of estate duty. We would like those people to bring back their money and buy houses. It would encourage developers to build more if there was a larger demand, not only from UK residents who decide to come and settle in Gibraltar, but also from a proportion of the Gibraltarian community who have substantial means. If we could get them to bring their money back from Jersey, Guernsey, or wherever that money may be, and invest locally, that is a good thing for us because you would have more developments. If that investor is going to pay the going rate for say, 2 or 3 bedroom flats, which is now £45,000 to £50,000, how can you tell that investor that that property after 30 years will become rent controlled? I don't think the investor is going to be willing to risk his money. In many cases he may have to take a bank loan, and if he goes to the bank and says "I am buying this property, I wish to put 20% or 30% down, will you give me facilities for the balance?" I don't think banks are going to be very willing to lend the balance when they know that after 30 years that will become rent controlled, and be subject to a statutory rent. So that is really the basis of 1954, and with

that I agree we were wrong. This is why the 1954 idea was stopped. Again, I reiterate that it is unfortunate that the Select Committee did not spell that out in the Report how we arrived at 1954. So, people say, "When you looked at '54, the Select Committee was probably looking at how many more properties it was trying to bring in". Yes, we looked at that; but '54 was only based on the idea which I have just put forward Mr Speaker. Now, having said that, what are the main changes as far as dwelling houses are concerned? The first one, I think, is found in Section 3. I do not propose to deal at length at this stage with this; I will come back to it later. May I just tell the House - I think Mr Isola asked this particular question - that it is the intention of the Government to bring in an amendment to that particular Clause, Section 3, which deals with the member of the family. The amendment is because it was felt that Section 3, in itself, may not be clear that you have two transmissions. I take the point which has been made about member of the family, but the view that I took when I first got the Bill was that if you define members of a family to say, brother, sister or what have you, you run the risk of excluding a certain category of the members of the family. You may forget brothers-in-law, and they would be members of the family. It could have a very unfair and inequitable effect on them at a later stage should they have any problems. But the point is of course taken. In the United Kingdom, I think it was the 1957 Act, they extended from what we have now, from one transmission to two transmissions. The wording is quite clear, but even then they defined the members of the family, the courts interpreted it on a very restrictive basis - being a rent control Ordinance in England - and then you had further legislation in England coming back to extending the meaning of members of the family. In fact, it is a very wide definition nowadays. My honest view was that that is precisely what we have done in Section 3; but it is obviously a matter that will be looked at. I will come to that, on the question of transmissions, at a later stage. An important innovation in the Bill, in favour of the tenant is Section 5, the setting up of a Rent Assessor, Section 6, and Section 7, the setting up of a Rent Tribunal. I refer Members also to Section 30 in the Bill which provides that a request may be made to the Tribunal to determine what is a statutory rent of a particular dwelling house. I would stress Section 30 Sub-Section 4, which puts the onus on to the landlord to establish what is a statutory rent. The powers of the Rent Assessor - as far as dwelling houses are concerned - are quite wide, and I think it will go a very long way in stopping the situation that we have had in the past, where tenants have been frightened to take the landlord to court because of the possible repercussions that that could bring. The provisions of Section 30 enables any person to tell the rent tribunal, "I want you to determine what a rent I should be paying". Clearly, that - if anything must be in favour of a tenant and in no way in favour of the landlord. Now, let me come to what I consider to be the major or the fundamental thing of this Bill as far as dwelling houses are concerned: Section 10. We are talking about controlled premises, in other words, those pre-1945. I do not think there is any magic in the year 1945: the importance is not the year.

The importance is that, under our present legislation and under the old legislation, we provided that if you had a property pre-1940, to which the Ordinance was deemed to apply, the landlord could get away from that by letting the flat furnished. I think that has been one of the most unjust provisions that has existed in our legislation, and I would say it is the main provision in which the unscrupulous landlord has benefitted. A landlord with property pre-1940, only had to comply with the First Schedule in the Ordinance and put in a couple of chairs, a bed, two pillow cases. The schedule did not even provide that there should be running water, which was incredible. All you had to provide, if you were a landlord, was a washbasin or - in some cases - a bucket would suffice. Let us be quite open about this: this is the main injustice in dwelling houses. This was allowed by the law: if you just let it furnished, that was the end of the control. I know of cases in which a room and kitchen, because it was let so-called furnished, the landlord was charging £50 and £60 a week. The worst thing is that, since it was outside the control of the Ordinance, that tenant, only needed to get a week's notice from the landlord and out he went. I am going to refer Members to the first Schedule of the previous Ordinance, to see what the landlord had to provide for the purposes of Section 5(2). In any room let as a bedroom, one bed or unless occupation by two persons one double bed, or two single beds complete with a mattress and pillow; one wardrobe; one dressing table; one small table; two chairs; one wash-stand and basin or fitted washbasin. In a sitting room you had to provide a table of not less than 9 square feet; one armchair; three chairs; but no provision for running water, no provision for anything. There can be no doubt this has been abused by many people in Gibraltar. Maybe you cannot blame the landlords, maybe to some extent one would have to blame some estate agents. There are some who are I think respectable and have not done this that I am highlighting. So, that is the importance of our Section 10: we are saying all pre-1945 property is going to be protected. We are doing away completely, with the total injustice that there has been on furnished, or on what I would call the so-called furnished letting, because it never really was furnished in the way that a reasonable man would determine a furnished letting is. In Section 10, we are going to tell the landlord, if it is a pre-45 property, and if it is furnished, you can only charge the statutory rent plus the value of the furniture amortised over 8 years. The advantage of this, if I may come back to the point of retrospection that Mr Isola asked, is that when the law comes into force, there will be cases in which the tenant has had the use of dilapidated furniture. The value of that furniture will be on the date of the commencement of the Bill. The valuer could well look at the furniture provided and say, "This is not worth anything", so that tenant who has been suffering for a long period of time paying a very high rent, in that case will only pay the statutory rent. In the event that there is proper furniture of certain value, the landlord, it is only fair, should get some compensation for that. But the amortization period is 8 years. That is clearly in favour of the tenant. But, let me reiterate, the importance is not only in the rent; the importance is that the Ordinance now applies to that tenant and the landlord will not be able to throw him out like he was

before under the old law. So I think that, with just Section 10, we are correcting a very large number of injustices that have been existing under the old legislation, a substantial amount of injustices both as to rent and as to the question of protection.

HON J BOSSANO:

Is the Honourable Member saying that the tenants are not protected under the present Landlord and Tenant Ordinance which applied to the houses built before 1940?

HON J B PEREZ:

Yes, apart from the prohibition section, of Section 25, which I have no hesitation in saying has been flouted in Gibraltar. Section 25 in the Landlord and Tenant prohibited certain property being let furnished. That has been flouted. Tenants, you see, have been so scared because of the dangers of being evicted that they have not bothered to take the matter to court and argue on the basis of Section 25. All you have is the landlord putting in the minimum amount of furniture and making it prima facie a furnished flat, charging £50 a week, and then when the tenant says, "This is a very high rent" replying "Well, if you do not like it you are going to get a notice to quit". The tenant does not understand the technicalities of Section 25, in having to go to court and argue that the letting was an illegal one. I am going back to the old law. In most cases, in my experience, it has been going to court; but the problem is that you find that the tenant is scared when you tell him, "Well, you may lose".

HON J BOSSANO:

Mr Speaker, surely the Honourable Member is not arguing whether people adequately use the protection that the law has given them; he is arguing that the people are being given protection in the new law that they did not have in the old law. That is what I am asking him.

HON J B PEREZ:

Oh, yes.

HON J BOSSANO:

I mean they might even be scared of using this one.

HON J B PEREZ:

No, they cannot be, because that is precisely the point I made before on the Rent Assessor, Section 5, Section 6, Section 7 the setting up of the Rent Tribunal, Section 30. What I say is: all properties pre-45 the Ordinance applies, there is no getting out of it. Before, we were saying: all properties pre-1940, the Ordinance applies except for those which are let furnished. Section 25 of the previous Ordinance was a major

loophole in the old law. It says: Subject to the provisions of this Ordinance this part shall apply etc, etc, but then you have provided that: (1) this part shall not, save as otherwise provided, apply to a dwelling house bona fide let at a rent which includes payment in respect of board, attendance or use of furniture. That is what I say has been flouted in Gibraltar, and this is where all the injustices have stemmed from. One would have said the property is let furnished by providing the minimum items of furniture, as I have already pointed out in the First Schedule, and got away with it because the tenant has been too scared because the landlord could go to court and prove that it was furnished.

HON J BOSSANO:

It was furnished, Mr Speaker. It could prove it was furnished, and it could prove at the same time that it was breaking the law.

HON J B PEREZ:

Yes, I know that because I am a lawyer and I have been involved. Tenants do not know that.

HON J BOSSANO:

Well I do not think they are going to be any more enlightened by this piece of legislation.

MR SPEAKER:

In fairness to Mr Bossano, if I may interrupt, I think that what Mr Bossano is saying is that there is no guarantee that people ignorant of the law will not misinterpret the new law as well as the other one.

HON J B PEREZ:

Well, then I am not making myself clear.

HON J BOSSANO:

Mr Speaker, I am trying to make the point that if the Honourable Member, on the general principles of the Bill, is trying to convince the House that the present Bill is an improvement on the old one, it is no argument to say that, in the old one, ignorant people failed to exercise their right. Presumably people will fail to exercise their right in the new one.

HON J B PEREZ:

The point I am trying to make Mr Speaker, is this. Under the old legislation the tenant in furnished accommodation was scared in taking any action against the landlord because he was worried of eviction. Under what is proposed now, we are saying that the Ordinance applies to all dwelling houses pre '45, whether furnished or not.

HON J BOSSANO;

Surely the old Ordinance applied to all accommodation, because furnished accommodation was not allowed. Is it not the case, Mr Speaker, that there have been recent cases of tenants who were rented pre-'40 property furnished, who went to a tribunal where the tribunal said that the furnished property was illegal and that therefore it was controlled and they could not be evicted; where the case went to an appeal and where the tenant won an appeal. So, can the Honourable Member demonstrate to me how that provision in the law that he wants to replace is inferior to the one he is bringing in? How is he giving more protection? I think the present law protects tenants quite well if they exercise the law.

HON J B PEREZ:

But, you should have pre-1940 which can be let furnished. What happens if, in 1940, the property was not let, it was owner occupied? Mr Speaker, the point I am making is that with Section 10 we are going much further to protect the tenant. After the House I will explain it to him.

MR SPEAKER:

I get the impression that you are going to have a lot more to say, so perhaps this will be a convenient time to recess until this afternoon at 3.15.

The House recessed at 1.05 pm.

The House resumed at 3.20 pm.

HON J B PEREZ:

Mr Speaker, I was speaking this morning at the end of my contribution on the question of Section 10. I said that, in my view, the application of Section 10, which brought in to conform all the pre-1945 dwelling houses, had a substantial effect and was a substantial improvement towards tenants' protection and rights. I have one or two points which I wish to put forward on this; and then I will proceed to carry on with my contribution, in which I will deal with the question of re-construction - which has also a direct bearing on the points that I have made in connection with furnished lettings. In connection with Section 10, I think that part of the importance of the provisions is that it shifts the onus from the tenant to the landlord. We have brought out Section 25 of the Landlord and Tenant Ordinance. In that Section, where the annual rent was £60 per annum or over, or the house at the time was owner-occupied, the problem that the tenant faced was if he wanted to question whether it was a furnished letting or not; whether he had to pay £50, or £45 or £60 a week; and whether or not he had the protection of the Ordinance. This was a great worry for the tenant, and a great injustice. The position has now changed, because with the new provisions,

what we are saying is that all dwelling houses pre-'45 are not allowed to be furnished. Therefore, the tenant no longer has to take the first step to contest that, because my interpretation-and the intention behind Section 10-is that it is up to the landlord, when the Ordinance comes into force, to take that first step. In other words, it will no longer be open to the landlord to say, in connection with pre-45 dwellings, "Look this is a furnished flat, I have provided you with the furniture. You have to pay me your £50 a week". What we are now saying is "No, Mr Landlord; it is you who have to go to the Rent Tribunal and show that it is or it was bona fide let furnished". We go further and say, "Even if you do that, it is still a protected dwelling". The landlord, after he takes that initial step, will be told, "I am very sorry, your statutory rent is X; that is the only thing you can charge. But, if you prove or if you can demonstrate the value of the furniture at the date of the commencement of the Ordinance, we will allow you to amortise the value of that furniture over a period of 8 years". That is clearly in favour of the tenant. There cannot be any other possible interpretations to Section 10. So I think that that is a fundamental hurdle, and an injustice which the Government is seeking to correct. I am 100% convinced that we are doing that by Section 10. Now there are two other points which I wish to ponder on, in connection with Section 10. The next point I wish to make is the provision contained in Section 32 of the Bill, with reference to properties which are post 1945 but pre 1954. The provisions are very simple. What they say and what they provide is that if you are now dealing with a decontrolled or a non-restricted flat, but nevertheless let on a furnished basis, if you provide the furniture, the rent must be a fair rent. Now let me say right away, that I am worried about this particular provision. The reason is that this is a section in which the onus remains on the tenant. He has to take the first step to try and establish that his rent is not a fair rent. I am worried about that because I think we are coming back to the previous provisions which existed in pre 1940 dwellings.

HON J BOSSANO:

Perhaps it has been cleared up and I have missed it Mr Speaker. There is a constant reference to '54, and in fact it says '64 in the Ordinance.

HON J B PEREZ:

I think that my Honourable Colleague, Mr Featherstone, cleared up the matter as to what amendments were in fact going to be brought at Committee Stage. I think one of the points he made - I don't know if the Honourable Member was in the House - he said that the date would be 1954. The point I am trying to make is that whether you make it '54, '64 or '74, those flats are outside the control of the Ordinance as far as eviction is concerned. So, therefore, you are still leaving the initiative to the tenant to take the first step and say, "This is not a fair rent". I am worried about that because there may be cases in which tenants, as has happened in the past, may not be willing to take that first step in case they lose. They may be

worried that if they antagonise their landlords, the landlords may well then say, "OK, the court has held or the Tribunal has held that the fair rent is not £50 but £35", and then you get your notice to quit. To be perfectly honest with the House, I have not got a solution to that particular problem. What I sincerely hope is that landlords will take due notice of things that have been said in the House, and of the intention behind these words. I am criticising our own provision in the Bill, and I make no qualms about that. Be that as it may, the provision is there, and it may be that some tenant may make certain use of that - but to what extent I am not sure. I do not think that I can really argue that that is an innovation or a great benefit in connection with giving protection to the tenants. The provision is there for those who want to make use of it. Now, the first point I wish to make, which I think is an important one, is that for all dwelling houses, whether it is furnished, whether it is pre 1940, or whenever it was built, all periodical tenancies require a 6 months' notice to quit. That, I am sure, Members will agree, is a substantial improvement to what we had before. We have never had that, and that provision is in fact contained in Section 74 of the Bill. Section 74 is a Section of general application. The heading is Notices To Quit: "Subject to the other provisions of this Ordinance, but notwithstanding any agreement to the contrary, no periodical tenancy shall be determinable by less than 6 months' notice of intention to terminate that tenancy". That, I think, is a step in the right direction and it means that even a tenant of furnished accommodation which is built in 1982 or 1983 will have that benefit of requiring the landlord to give him 6 months' notice to quit. Let me remind Honourable Members of what the law was, or what the law in fact still is, if we forget the moratorium: if you are a weekly tenant, and by that I mean if you pay your rent on a weekly basis, all the landlord has to give you is 8 days' notice. At the end of the 8 days, your tenancy ends and you are out. If you are a monthly tenant, all the landlord has to give you is one month's notice and so on. In other words, the notice required to be given by the landlord to the tenant will depend on the type of tenancy that exists: if you pay a weekly rent or a monthly rent or a quarterly rent, that is the tenancy period. In most cases in Gibraltar that I am aware of, most tenancies of furnished accommodation, post-war, are weekly tenancies. There have been cases of injustices, because here in Gibraltar if you are a tenant of a particular dwelling house, and you are given 7 days, we all know that that is a totally inadequate period to enable you to try and find other accommodation - even if you have substantial means to be able to pay a rent of £40 and £50 a week. At least that is a new thing that is being produced, and it is one which I myself welcome completely. I now come to deal, Mr Speaker, with the question of reconstruction. Let me say straightaway that the whole basis of reconstruction is completely tied up with everything that I have said this morning. I know Mr Bossano still has some doubts about what I said; it is totally tied up with the question of furnished accommodation. Perhaps I am speaking more as a lawyer than a politician, and I apologise for that, but I want Members to understand what goes on in Gibraltar today as far as the relationship of landlord and tenant is concerned. What goes on under the old legislation is very simple.

What landlords do is this. A flat becomes vacant, and all they do is they partition that particular dwelling house, not even with a brick wall, in some cases. What they do is that they may build a little shower room on both sides to try and establish that it is self-contained. When I was speaking about furnished accommodation this morning, we spoke about Section 25 - which was prohibited lettings and we spoke about the £60 per annum annual rent for 1940: any property in a higher rent than that was in fact exempted from that provision. We also spoke about cases in which the property in 1940 was owner-occupied, which I said were two loopholes existing in the legislation. As far as reconversions are concerned, the old law provided a large loophole for landlords because Section 5 of the old legislation said this, Sub-Section 5 of Section 5: "This part shall not apply" - when it says 'this part' it means to the actual Ordinance with the protection to the tenant - "to a dwelling house erected after or in course of erection on the 1st day of May 1940 or to any dwelling house which has been since that date, or was at that date, bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements". There is no provision there as to annual rent, and the way it has been interpreted is that you can just have a simple partition of a vacant flat and you have two tenements. In some cases, the landlord has built a shower room or whatever, said those were two self-contained flats, and was able to take those two flats - possibly built well before 1940 - outside the control of the Rent Restriction Acts. To make matters worse, also in most cases did, was provide furniture.

MR SPEAKER:

Yes, but with respect, let us not go into detail of what was the practice before: it is fair enough to compare the virtues of the new Ordinance as against the practice of the old one, but let us not go into detail because otherwise we can go on endlessly.

HON J B PEREZ:

Yes but, Mr Speaker, this has been put forward as being a pro landlord Bill and I am trying to establish that in no way is it in favour of the landlord.

MR SPEAKER:

Fair enough.

HON J B PEREZ:

So that we are curing as well, because by virtue of the proposed Section 22, we are now again shifting the onus onto the landlord to try and show that there have been structural alterations - not only a partition. Structural alterations are now required by virtue of Section 22. So the tenant does not have to be afraid of being given a notice to quit if he says, "look I am entitled to pay a lower rent". That clearly is in favour of the tenant, and should go a long way to correcting injustices which

have appeared in the past. The whole question of furnished dwellings has been tied up, in my view, with the question of reconversion, and that has brought on tenants to be very scared of taking legal action against landlords. With the new Section 22, any landlord who wishes to establish that his flat is not controlled by the new Ordinance, will have to seek a certificate from the Rents Tribunal. That is a fundamental change to our present legislation, which is clearly in favour of the tenant. The other point, Sir, that I wish to make is the question that my friend Mr Featherstone also pointed out, and that is that Section 22 merely deals with reconstruction or structural alterations being carried out to premises after the Ordinance comes into effect. He did say that it is proposed to bring in an amendment at Committee Stage in order to enable the landlords, in cases where there has been a reconversion, to be able to apply - although the reconversion has occurred before the Ordinance comes into force. That, I think, is fair. The amendment would be to the effect that, if landlords do not make the application to the Rent Tribunal within a certain period of time, if you are dealing with a house that has been divided into two, both dwelling houses would be controlled. That is in favour of the tenant. Mr Speaker, I now come to the question of statutory transmission. The old legislation says, in a case where there is a husband and wife, the contractual tenancy comes to an end either due to the death of the husband or the wife: there is only one transmission. On the death of the husband, the wife becomes the statutory tenant - if the husband was the contractual tenant. After that, there are no further transmissions under the present law. Let us have that very clear in our own minds. What it is now proposed to do is two things. As from the date of commencement of the Ordinance, the person in occupation is the first tenant. When that person dies, it will either go to the husband or the wife: one transmission. Then we are taking it further, to either the son or daughter, or if there are no sons or daughters, to a member of the family who was living within the household for a minimum period of eighteen months before that particular death. So that, again, is an innovation and a great improvement to our present legislation. We are also re-enacting Section 18 of the old Ordinance, which provides for cases where the landlord is restricted as to the recovery of possession of premises. Those I think have operated fairly in the past. With Section 29 of the Bill, we are providing for the provision of rent books. I think that is welcomed by all persons, and in particular by tenants. In Section 16 of the Bill, we are providing for the setting up of a sinking fund. As has already been pointed out, the basic idea of this is to stop the landlord from saying, "I haven't got money to do repairs". We are giving the landlord, on the one hand, an increase in rent for pre 1945 properties; but at the same time we are saying, "You have to set off a certain proportion of that rent towards repairs". So, if a property is in need of urgent repairs, at least there should be a fund to be able to cater for that. It may well be that initially the fund may not be large enough; but the intention is that the fund should build up, and at the same time give an advantage to the landlord as to income tax. So, the money will be there to provide

necessary repairs to be carried out to the building. I think, Mr Speaker, that as far as dwelling houses are concerned, there can be no doubt whatsoever that the proposed Bill provides much greater protection to the tenant and goes a long way to try and curb the injustices that have arisen in the last years. I would reiterate that it is a question of striking a balance between the landlord's rights and the tenant's rights. If you argue that the Bill doesn't go far enough, that is one thing; but what I think is totally wrong is to say that the Bill goes no way in favour of protecting the tenant. I now come Mr Speaker, to the question of business premises. Again, I think that the provisions which are contained in the Bill are somewhat weighted towards the tenant. Again I reiterate the point I made with dwelling houses: it is arguable whether the Bill goes to the extent that one would like in favour of the tenant; it is a question of trying to strike the right balance between the landlord's rights and the tenant's. I would like to highlight the main provisions which I think are changes to the old law. The first one is the appointment and the powers of the rent assessor, which are contained - as far as business premises are concerned - in Section 38 of the Bill. That provides that a register of tenancies must be kept. It is compulsory on both landlords and tenants to register their tenancies; that is the term of years, the duration of the tenancy and the rent which has to be paid under the tenancy. The Select Committee came up with this particular idea as it was put to us on many occasions that tenants have problems as far as Estate Agents are concerned in that Estate Agents are valuers. Some tenants told the Committee that their problem was that they found that the market values which were given by Estate Agents were not done as impartially as they thought that they ought to be done. The advantage with the register is that that would be available, under Section 39 of the proposed Bill, to the courts. The register will contain or should contain by law, all tenancies which exist in Gibraltar of business premises and the rent that is being paid. Therefore, the question of what is the market rent to be established should be quite simple, if you compare it with the present system. Today, there is no register and you can have - in many cases you have had - a particular valuer going to court and saying the market value of, say, business premises in Main Street is £10 a square foot. In order to prove his valuation he may use 1, 2, 3 or 4 different tenancies that he is aware of. On the other hand, you have the valuer for the tenant who says instead of £10 a square foot it should be £9 and he bases himself on different other valuations. With a register they will all be there and it would be available to the court and that should enable the court to try and establish the real market rental for that particular property. There is another fundamental change that is being proposed in the new Bill. This is in connection with technical matters and procedural matters which arise from the Ordinance. This is contained in Section 56 of the Bill, under the heading "Extension of time". Perhaps I ought to explain what the position under the law is or was, where a landlord wishes to terminate a tenancy either because he wants an increase in rent or he wants to oppose the

application for a new tenancy on the grounds provided in the Ordinance. He gives the notice to quit, as per the rules, and he is required by law to put in that notice or request the tenant to say within two months whether the tenant wishes to leave the premises or not. The notice points out to the tenant that he is required to inform the landlord within two months whether he wishes to vacate or not. If the tenant, whether it is his lawyer's fault or whether he may be away from Gibraltar due to ill health, or for whatever reason, fails to reply within those two months, the fact remains that that tenant cannot make an application to court for a new tenancy because the old law provides that it cannot be entertained. That is unfair. The second point we are trying to correct, by amendment at committee stage by the Attorney-General, is that once the tenant has received the notice to quit, and he has replied within the two months that he does not wish to vacate the premises, the tenant must take out a summons in the Supreme Court of Gibraltar requesting a new tenancy. The law provides that the application for a tenancy by the tenant must be made not before two months from the landlord's notice to quit; and not after four months from the date of the notice to quit. There have been many cases that I am aware of in which the tenant or the solicitor or for whatever reason has not made that application not before two months and not later than four months. Under the old law, if that happened, no application could be entertained from the tenant and the landlord took possession of the premises. That we are attempting to change. Here I must reiterate that, as far as the present Bill is concerned, Section 56 that does not go far enough to meet the second point that I have made. Subsection (2) provides, "The court may, in its discretion, grant to a landlord or tenant an extension of time", for giving any notice under this Part. Thus an amendment will be put to that to enable the tenant who has not taken up a summons before the time stipulated to be able to ask for a further extension. That clearly is in favour of the tenant and not in favour of the landlord. I think that answers the point that the Honourable the Leader of the Opposition raised this morning as to the notice. I now come to the main difficulty, as far as I am concerned and that is cases in which the landlord seeks to recover possession on certain grounds. Where the landlord seeks to recover possession on the grounds for example that the tenant has persistently delayed in paying rent, or has failed to carry out repairs, or is in breach of his contractual obligations, I think there is no problem: clearly this is a case in which the tenant is at fault, and that should be the end of the matter. But, we come to the position where a landlord wishes to re-occupy the premises, to bring the tenancy to an end, on the grounds that he wishes to carry out the business either for himself or for one of his children, or he wishes to repossess for redevelopment. It is a matter which worried the Select Committee to such an extent that we went entirely to one extreme and we said, "Because of all the problems that we foresee, our main recommendation should be that any landlord who wishes to repossess for himself or for his children must provide the tenant with

suitable alternative accommodation". We took the extreme view because we said we don't have to deal with problems of improvements which have been carried out by the tenant; we don't have to deal with problems of goodwill which may be attached to the premises; we don't have to consider the case in which a particular business has 30 or 40 employees. If you give alternative accommodation, we don't have to tackle those. There are two factors which one has to consider here. If you go to one extreme and you tell the landlord, "In no way - unless you give suitable alternative accommodation - can you get your property back", that it is arguable, could be unconstitutional and in breach of Section 6 of our present Constitution because that provides for the rights to property and one can argue that if you did that, if you went as far as the Select Committee have recommended, one would in fact be depriving landlords of their freehold property for ever. On the other hand, having said that, one must also take into account cases in which tenants have spent substantial amounts of money in carrying out structural alterations to their premises in improvements and one should to some extent consider the goodwill that is attached to certain premises because one must not forget that if one is carrying on a particular line of business, say in Main Street, that the landlord on making a case, on going to court and proving that he wishes to carry on a business himself, could very well carry on the same business that the tenant was carrying on and therefore the landlord would benefit (1) all the money the tenant has spent on the property (2) all the goodwill that is attached to that particular business which I think is totally immoral and totally unjust because it would be reaping the benefits of everything that the tenant has done. And the tenant has done that and at the same time the landlord has been taking rent from the tenant, the tenant has been spending money towards his business. It is all those matters which one has to consider in dealing with this particular right to possession from the landlord. The Government's view on this was that it would be wrong to go to the extreme as the Select Committee recommended, and let me say that I was a member of that Select Committee and I put my name down to that particular recommendation. The reason I did was because I didn't have the answers to the problems that one is faced with but I do recognise the constitutional right under Section 6 to the right to property. So one has to again try and strike a balance between one and the other and the Government's view on that is that the landlord should either give suitable alternative accommodation or substantial compensation, and I stress the word, the compensation must be substantial. Apart from that there should be an element which would provide or should enable the tenant to obtain money for the improvement for structural alterations which he has made to those premises. In the Bill with the amendments that have been proposed - because I must admit that the Bill at present before the House in fact still goes on the view of alternative accommodation and I think it has been made clear that amendments will be brought in order to provide for compensation to be paid instead of suitable alternative accommodation. The Government is putting forward increased periods of notice, depending on

the number of years that the tenant has been in occupation. The Government is also proposing certain levels of compensation which ought to be paid to the tenant by the landlord in those particular cases. Again I stress the intention is that that must be substantial compensation. For the benefit of those members who may not be aware of what the meaning of net annual value is, net annual value is very simple, it is the duty of the valuation officer to take what he considers to be.....

MR SPEAKER:

With respect, I do not think it is necessary to explain what the net annual value is.

HON J B PEREZ:

Yes, but the only point, Sir, is that if I don't explain what a net annual value is how do I explain the proposed amendment which is NAV or 5/6th the current rent.

MR SPEAKER:

Anyway, perhaps it would be quicker if you do.

HON J B PEREZ:

I don't intend to take long but the net annual value is very simple. What the Valuation Officer does is he takes what he considers to be the market rent of the property, it doesn't necessarily have to be the actual rent paid, he multiplies that by 12 and that gives him his gross annual value. He then deducts 16 and $\frac{3}{4}$ for repairs, I am sure that this is not known by many Members of the House, Mr Speaker, and that gives you your net annual value. There are cases in Gibraltar in which the Valuation Officer does not accept the rent actually paid by the tenant as being the market rent. Therefore, it is proposed at Committee Stage to put in the amendment that instead of X times the net annual value, it should be X times 5/6th of the current rent being paid because the net annual value approximately is 10 months rent per annum and this is where the idea of 5/6th comes in. The Government puts that in in order to try and protect the tenant who in fact is paying a higher rent than the market rent, that when he has to receive compensation in the event that the landlord succeeds in establishing that he wishes to re-occupy for himself, that the tenant should not be prejudiced by having had to pay a higher rent than was in fact the market rent established by the Valuation Officer. I must confess that I myself find that particular clause the most difficult of all. I think that is the most fundamental part of this particular Bill as far as business premises are concerned. I think I have already given credit and I think the idea of the Leader of the Opposition is one that should be looked at again, and that is the question of whether you should have suitable alternative accommodation, substantial compensation, or giving the tenant the option to purchase the landlord's interest whether it is leasehold or freehold. Whether that is within

the Constitution or not I don't know but I think the idea is an excellent one and it is something that we would have to look at.

HON P J ISOLA:

If the Honourable Member will give way just a minute because as he was talking on this Section I realised that the new legislation takes away the right that there was in the old legislation where premises were re-developed, of giving the tenant who had to move out while the development took place, the right to be back into the development, that seems to have disappeared. Is that deliberate or accidental?

HON J B PEREZ:

Perhaps I should answer it this way. In cases of re-development in the past where the option was given to the tenant, it is all very well in law to say that but in practice if I am a tenant of premises in Main Street and the landlord establishes a case of wanting to reconstruct the whole of the property, let us be honest about this, where do I go after the two years it may take the landlord to redevelop that particular property, what do I do? What good is it to the tenant to be told: "When I finish the reconstruction you have an option to go back". What about all his employees? What does he do with his employees as a tenant for those two years that it may take to reconstruct? I must confess, Mr Speaker, that the whole of these sections are misleading because there is an amendment which the House has already been put on notice, which will be put by the Government at Committee Stage. The Bill at present puts the onus on the landlords to provide the alternative accommodation. The amendment should come up at Committee Stage to provide for substantial compensation as an alternative to suitable alternative accommodation.

HON P J ISOLA:

What normally happens in a re-development is that it is divided up. In fact that is very dangerous for a developer because he will re-develop the whole building which had, say, one tenant before and that tenant will have the right to take over the whole lot under that section.

HON CHIEF MINISTER:

If the Honourable Member will give way, the old provision is that after the period of reconstruction the tenant is entitled to premises similar in size and situation as he had prior to the reconstruction.

HON P J ISOLA:

That is not what it says.

MR SPEAKER:

I think this is the sort of thing that one should discuss at Committee Stage. We are now discussing the general principles.

HON J B PEREZ:

We have already been put on notice and an amendment is to be put forward and at Committee Stage one can look at that. But the point I want to establish on the basic principles of that is the reality and the practicality and the position of the tenant, whether the landlord proves his case on the basis that he wishes to occupy the property for himself or whether he wishes to reconstruct, as far as the tenant is concerned in any event for that two years of reconstruction works what does he do with his employees and where will his livelihood come from. That is the point I wish to make because I look at re-development and possession for the landlord on the basis for a business to be carried on by him, as more or less on the same level because the tenant is still at the receiving end of both. And this is where the question of either suitable alternative accommodation or substantial compensation must come in. But what was the previous legislation, the previous legislation or the old legislation only provides for a tenant to receive twice the net annual value. I think members should be aware of this. From 1969 until today, a tenant who has been evicted by a landlord on the basis that the landlord wishes to occupy the property for a business to be carried on by him or his children, the truth of the matter is that all the tenant has got is twice the net annual value so in any event the Government's proposals as to compensation are surely much higher than what the present legislation provides. In fact, it is all based on a scale, it has already been indicated that again at Committee Stage it is proposed to increase those scales not only as to notice to quit, as to the time element, that it is proposed to increase the compensation payable. The proposal at Committee Stage will be to increase on the same basis, for example, not more than 5 years, instead of being three times the net annual value, it will be proposed to increase that and so on. Clearly, a substantial improvement and substantial progress has been made and more protection been given to the tenant in those cases. Again, I reiterate, Mr Speaker, whether some members feel that those levels of compensation do not go far enough, that is another matter because one could say instead of having a tenant who has been more than 10 years but not more than 15 instead of six times the net annual value, and instead of 18 months' notice to quit one could equally say, well, I think it should be 10 times the net annual value. That is something which I think is arguable and again it is a question of trying to draw a balance between the landlord's rights, the landlord's interests and the tenant. To sum up, all I wish to reiterate is the points that I have made on a number of occasions and that is that in no way can this Bill at present before the House be described as a Bill which goes in favour of the landlord. I would again stress that it is entirely to the contrary. The Bill seeks to give

further protection to tenants, both in dwelling houses and to tenants in business premises. The point that I again wish to point out is the difficulty in trying to strike a balance between landlord and tenant. That is open to argument and it may well be that members may think that instead of giving amortising furniture over 8 years you should have it over 15, instead of having the year 1945 you should control property up to 1950, instead of giving tenants of business premises compensation 10 times the net annual value you should make it 20. That I think is arguable but, nevertheless, I think the Government has made a conscientious effort in trying to present what it considers to be a fair and equitable balance between the relationship of landlord and tenant. The Government has tried to take into account the points I made this morning as to the landlords' rights and on the other hand see what the tenants' rights are in that respect and to see how far, constitutionally, this House of Assembly can go in its legislative powers in controlling someone's property, in regulating someone's property for the benefit of the whole.

HON J BOSSANO:

Let me start off, perhaps, by clearing the air and saying that I would describe this Bill as one that favours the landlords, having heard everything that the Honourable Member has had to say on the subject so that should enable us to get off on a sound footing. I will not attempt to emulate the approach of the Honourable Member that has spoken at such length on the subject because it seems to me that at times his contributions verge on the sort of mediaeval theological controversy about how many angels can stand on a head of a pin. Let me say that the most manifest departure from the recommendations of the Select Committee that he was a party to, was the express necessity in paragraph 5 of the front page of thereport, that the new Ordinance should basically be written in simpler language so that the general public would be able to comprehend it and it seems to me that the members of this House are incapable of comprehending it because for the last half an hour we have had an exchange of views across the floor about whether a particular clause says something or does not say it and here we have got the people responsible for passing the legislation and the people who professionally are going to be advising their clients what the legislation means and this is supposed to be the legislation that is going to be more easily comprehended by the general public. Let me say as well that to come along, Mr Speaker, and say, having been two years in the Select Committee and recommending at the end of two years that there should be a requirement that a business tenant should be given alternative accommodation, having sat on that recommendation for 7 months, having brought it to a Bill in the House in the first reading of the Bill to discover between the First Reading and the Committee Stage that it is unconstitutional, is really to stretch the imagination of anybody here. Have we just read the Constitution in the last 24 hours and not in the last three years? Nobody at all in the last three years suggested to the Select Committee before the recommendations were published.

HON J B PEREZ:

I never said it was unconstitutional, I said it could be interpreted as being unconstitutional in connection with Section 6. I never said it was. I said the danger was there.

HON J BOSSANO:

Mr Speaker, I know, but presumably it is landlords that have suggested that it is unconstitutional or perhaps the Leader of the Bar. I can tell the Honourable Member one thing, that the lay Members, who are the ones that I think I can with some modesty speak about on this subject, will see this definitely as a Bill that has been successfully shifted in favour of the landlord and I think the Government's position, quite frankly, is incomprehensible. The Government came to this House of Assembly in 1979. I quote, Mr Speaker, from page 217 of Hansard on the Budget Session of 1979, when the Chief Minister announced that legislation would be introduced during the course of 1979 to control all post-war property in 1979. They went to an election in 1980, they got re-elected, they had a clear mandate on that part of their policy, however unpopular it might have been with landlords, because in fact they announced they were going to do it in 1979, they did not do it in 1979, the Chief Minister said: "That is, we propose to introduce a limitation on the price of post-war flats, which are not furnished". And the limitation was going to be 15% increase at the time that he introduced a 33% increase on pre-war flats and a 25% increase in tenement dwellings. And he announced in the budget a 60% limitation on rent increases for post-war properties. And it did not happen in 1979, and it did not happen in 1980. And he came along in 1981 with a Bill which was more favourable to the landlord than what he had intended to do in 1979. The 1981 Bill proposed to limit rent increases to 10% per annum but only until 1986. That is, between 1979 and 1981 they had been allowed to increase however much they wanted. After 1986 they were going to be allowed to do it again, but between 1981 and 1986, for the five year period, they were going to be limited to 10%. But, clearly, that was from a landlord's point of view, not as bad as the 1979 proposal. And in fact, the landlords, quickly organised themselves into the Property Owners Action Group and lobbied against this, and we then had a Select Committee, and the Select Committee produced its recommendations, and the landlords then produced a list of objections to the recommendations of the Select Committee, and we see those objections taking shape in the law, and the Honourable Member spends two hours trying to convince, I am not sure whether it is me or himself. He may have succeeded in convincing himself but he has not succeeded in convincing me, that the law is not in fact in favour of landlords. Of course it is in favour of landlords. It is in favour of landlords in respect of everything that has been attempted and been still-born until now since 1979.

HON J B PEREZ:

But not as far as the old law is concerned.

HON J BOSSANO:

Well as far as the old law is concerned.....

MR SPEAKER:

No, we are not going to have ding-dong. From now on you will not give way.

HON J B PEREZ:

All my points, Mr Speaker, were based on the Bill as present before the House and the legislation as it exists today. I was not comparing the Bill with the Report of the Select Committee. I made that quite clear from the very beginning. This is why I said that in no way, in my view, could this Bill be interpreted pro-landlord, rather it was pro-tenant compared to the old law.

HON J BOSSANO:

I would dispute that and I will in a minute, Mr Speaker, but presumably the Honourable Member must accept that just because he chose not to refer to his recommendations it does not preclude me referring to them. And if his recommendations are more objectionable to landlords than what he is presently subscribing to, then he has been shifted from being pro-tenant to being pro-landlord. I don't see how he can dispute that. And to come along and say that in the Committee Stage they are going to introduce compensation to protect tenants from the fact that they are taking away in the Committee Stage the protection that they have introduced in the First Reading, I mean, how many mental conjuring tricks does one have to do to swallow that one. If he is so keen to protect tenants all he has to do is not to move the amendment to take away the need to give alternative accommodation. That is all he needs to do. And then if it is said to be unconstitutional let it be tested in a court like the measure introduced at one time by the Minister for Economic Development when he was responsible for Consumer Protection which I supported and I am still waiting to see re-introduced. I supported it in this House, other Members of the Opposition did it because it was going to protect consumers, it was challenged by the Chamber of Commerce because it was unconstitutional, it was lost in court, the Honourable Member had to come here and withdraw it and he announced that he was going to find another way of achieving

the objective and I am still waiting because he convinced me to vote in favour and he has not come back since. The fear of it being unconstitutional, I am afraid, cuts no ice. Let me go back to what it is the Select Committee has done or tried to do. Having started off in 1979 with a declaration of Government policy of controlling post-war rents, we finish up with a Bill that controls war rents because the rents are controlled pre-war, no houses were built during the war, a number of them were destroyed, and we are now controlling for the first time all the houses built between 1940 and 1945. What is it in protection of tenants that has persuaded the Member who signed the Select Committee's Report that he should go from 1954 to 1945? What is it in protection of tenants that is going to produce an amendment to take away 1964 for furnished accommodation and replace it by 1954. All these measures in favour of tenants that we are being told I see as being an only and exclusively in favour of landlords, and I am not saying that what the Select Committee produced is sufficient as far as I am concerned, let me make that quite clear, I don't think it goes far enough. What is being proposed now does not go as far as the Select Committee recommended. The Honourable Member said the Select Committee was too extreme, I consider that the Select Committee is too mild so obviously the present Bill is not going to get my support, Mr Speaker, and I am talking on the general principles and therefore I do not intend to go into detailed examinations of one clause or another clause because it is the fundamental principle of controlling post war rents that I am talking about. And I do not believe that it is true to say that the onus is now going to be on the landlord as opposed to the tenant. The rents of places that are rented furnished at the moment, that are pre-war properties, pre-1940 properties, of which there are 2000 houses in Gibraltar, a third of the housing stock is pre-1940, those places that are rented furnished are rented so illegally. If the landlords have been able to get away with it because the tenants have been frightened to complain, those tenants will not even be aware that the law has been changed, unless the Honourable Member is saying that the Rent Assessor on his own initiative, without anybody approaching him, is going to do a house-to-house inspection in Gibraltar to establish what the rent should be and fix it and enforce it. Then he will certainly need more than two Rent Assessors, he will need an army of Rent Assessors to do that. And not only is it just a question of people not complaining, even when people are approached, Mr Speaker, I have brought up in the House before the question of immigrant workers living in pre-war furnished property which, presumably, is totally illegal, but nevertheless registered as such, I do not know how, where the tenant has got a legal rent of £16, and I have got photocopies of all the documents here, a receipt for £25 and actually paying £35.

The only reason why nothing is done about it is because having brought the matter to the attention of the authorities I am told that the landlord can be taken to court because it is certainly illegal, but then the moment he is taken to court he will just re-register the premises and throw out the tenant so what is the use of the tenant then complaining even if he knew he had the right to complain. He will deny that he is being overcharged. The basic protection must be that if somebody is guilty of breaking the law, then he should not be able to benefit simply by paying a fine which will be an insignificant proportion of the illegal profits that he has made and then getting rid of the tenant and replace him with a new one who probably once he has heard of the experience of his predecessor will certainly not complain. And this nonsense, Mr Speaker, of saying the property in 1964, under Section 32, and it is no longer 1964, even 1964 is too extreme for the Government, so now it is going to be 1954, the property up to 1954, if it is let furnished, it has to be let at a rent which is not exorbitant and therefore it is a rent that the court will determine provides a reasonable profit expected from a similar letting for the year ending the end of this month. And the Government says that is too extreme and they go now to 1954. Well what are they saying then, that if a house is built after 1954 it is alright to have an exorbitant profit, then it does not matter, the rent can be as exorbitant as they like and the Government accepts that. I don't see why anybody should make an exorbitant profit on any property of any age. What is wrong with saying that people should make a reasonable profit irrespective of the age of the property? Why do we need to say 1964 if it is going to inhibit developers. Well it is not going to inhibit developers. If the only sort of developers that we can get in Gibraltar are the people where every enlightened parliament in Western Europe penalises because they are not developers, they are speculators if they need to make exorbitant profits. Because this law isn't in fact saying that people should make no profits. They are not saying we are going to confiscate their property. What they are saying is that their profit should be what might reasonably be expected in 1983. And what is wrong with that? And why is 1964 too recent a date? Why should it be 1964, why shouldn't all properties be subject to that? Why should they be told that they have to make a reasonable profit if it is furnished but if it is not furnished then it does not matter, they can then make an exorbitant profit? Where is the philosophy and the logic that is running through this legislation. Because I cannot find it. To me, it seems to be a Bill which is the result of conflicting pressures and it has been defended from both sides of the House on the grounds that if nobody is happy with it then it must be a good thing because if you are not satisfying anybody with what you are doing that shows that you are being fair. Well, I must

say it is an extremely odd principle on which to make legislation. Should we then apply that across the board to all our legislation? If we are all unhappy with all the laws then that means that they are all very good laws. Nor can I accept, Mr Speaker, that the Bill as it stands now or as it will stand at the Committee Stage, plus presumably whatever amendments to the amendments appear between now and the Committee Stage, is anything other than a reflection of conflicting pressures, and it seems to me the only thing that determines what is the final shape of this piece of legislation is who gets to apply the pressure last before the thing goes past the finishing post. I can tell the House that, certainly, if the Bill is passed and if there is a GSLP Government, it will be repealed.

MR SPEAKER:

Are there any other contributors to the debate?

HON A T LODDO:

Mr Speaker, having missed the first and second contribution, I might be in the course of my intervention making a number of mistakes but no doubt Honourable Members will jump up and draw my attention to it. Mr Speaker, I as a Member of the Select Committee on the Landlord and Tenant Ordinance, supported, and I still support, the report of the Select Committee. As far as I am concerned, that report was not what I would have liked to see but I accepted it because it represented a consensus. Mr Speaker, I believe in collective responsibility and if I sit on a committee there are two things I can do. Either I can come to terms with that Committee or if I find that I cannot come to terms I will leave. I found, Mr Speaker, that, by and large, I could come to terms with the Committee and therefore I appended my signature to the Select Committee's report. Mr Speaker, I support the Report but what we have now is so far from the report that I find I cannot support this. In an earlier intervention in this House, my Honourable Colleague and Friend, the Honourable Mr Haynes, said at the time that he found himself more in agreement with the Government's line than with the line adopted by the Select Committee. At that same meeting of the House, I also said that I was glad that I would be able to have a second bite at the cherry and that is precisely what I am doing now. I, Mr Speaker, am not in agreement with the Government's proposed legislation nor with the sentiments expressed by my Honourable Friend and Colleague Mr Andrew Haynes at the time or I am sure, with what he will be saying later on in the course of this debate. Mr Speaker, I believe that the Landlord and Tenant Ordinance is the most important piece of legislation to come before the House in the last 4 years and it should be a matter of regret that in this case it

is not going to be a free vote because at the end of the day we will all have to be voting along party lines although I would like to state here and now that as far as I have been able to judge, the only party line that I can call a party line has been that proposed by Mr Bossano. The Government have produced what they think is right or what they think is expedient, and we on our side have not yet been able to come up with a precise party line. Mr Speaker, I believe that this piece of legislation is so important that it would not be amiss if Members of this House were to declare an interest. I will declare an interest here and now. I am a tenant, I have no property, I do not represent anybody who has property, but, I would also like to say, Mr Speaker, that having sat through the deliberations of the Select Committee I am not insensitive to just and reasonable requests. I would also reassure the House that in sitting in this Select Committee I did not want to favour anybody, I was not thinking on the lines of being pro-tenant or being pro-landlord. I sat through the meetings of the Select Committee merely trying to be pro-justice. Mr Speaker, for my sins I was for a number of years a Public Health Inspector and I know Gibraltar virtually inside out, I know properties in Gibraltar virtually inside out. I know landlords, tenants and Estate Agents like the back of my hand. I have seen people paying for furnished accommodation when the furniture in these premises would not be given a second look by Mr Tapiero and yet these people have been paying through their noses, Mr Speaker. I would have thought that after so many years, the legislation on Landlords and Tenants would have been a really comprehensive piece of legislation and a piece of legislation to which, Mr Speaker, with all due respect, lawyers would have found it damned difficult to get around because it is well known that lawyers can always find a way round legislation. Not being a lawyer, I approached this piece of legislation, Mr Speaker, with naivety, I was one of those who wanted it to be in simple language, I wanted it to be something that was just reasonable and as far as possible foolproof. We were having to deal, Mr Speaker, with three aspects. Unfurnished accommodation, furnished accommodation and business premises and I believe, Mr Speaker, that the report produced by the Select Committee was a fair report if for no other reason that everybody disagreed with it, landlords, tenants, businessmen, everybody seemed disappointed with it. I could only draw my own conclusion and that was that if it didn't please anybody it must have been fairly near the mark because I have always said that there are three sides to any story, one side, the other side and the truth that must lie somewhere in between and I think we arrived somewhere in between. Mr Speaker, I am afraid that the legislation as proposed by the Government now, gives the landlords a blank cheque. I am not against blank cheques if they are just or the reason for giving them is just.

I don't think in this case it is. And in the peculiar circumstances of Gibraltar, Mr Speaker, I don't think this is right. Anywhere else in the world far bigger than Gibraltar, a businessman is given notice to quit and he can look around and he can find premises. In Gibraltar if a businessman is given notice to quit he is virtually without a way of life. There are two questions, Mr Speaker, which I would like somebody to answer for me. I have asked them before and I have never had a satisfactory answer. One is, Mr Speaker, that if you go to a bank in Gibraltar to get a mortgage, you will be very lucky if you can get a 15-year mortgage so my question is, does this mean that it is reasonable to expect anyone to pay for his property in 15 years? If you can only get a 15-year mortgage is it reasonable to assume that a person can expect to pay for his property in 15 years. If not, I am afraid then that the bank is squeezing you to death so if it is reasonable to expect that the property be paid for in 15 years, if you have a property for 30 years presumably you would at least have made 50% on your property. Not 100%, 50%. So my next question is, how long does anyone expect property in Gibraltar to last? And I am not referring to the property that is being built today, concrete, steel girders, I am referring to tenement properties that were built when the materials for construction were wood, brick and lime mortar. How long is a property built in wood, brick and lime mortar supposed to last? Mr Speaker, the way property changes hands in Gibraltar one would think that these tenement buildings which were built 150 years ago were meant to last like the pyramids of Giza. A property that is 150 years old Mr Speaker, is in a terrible state of repair, yet it changes hands at the fantastic price and then the new landlord complains that he has no money to repair it and that property has already been paid for 100 times. How long is a property supposed to last and how much profit can you expect from a property, Mr Speaker? Mr Speaker, I am afraid that although I would like to expand, I am not completely prepared for circumstances which need not concern the House, I am not completely prepared for my intervention today so I will have to wind up sooner than I expected to do but I will say that I do not believe that the legislation as proposed by Government will do justice, I believe that the legislation produced by Government will only benefit a handful of people at the expense and at the anguish of the majority of the people of Gibraltar and I can only express my regret that the other members of the Select Committee have suddenly or gradually decided to change their tune. I stand, Mr Speaker, by what I have stood all along - justice - which I am afraid will not be done if this legislation goes through. Thank you, Mr Speaker.

HON ATTORNEY-GENERAL:

Mr Speaker, just as a matter of record. I appreciate that this Bill complied with the Standing Orders for the minimum period of time possible but also say in passing that in fact it was not gazetted last Thursday, it was gazetted on the same day it was delivered to Honourable Members. It was gazetted at the same time as it was published. I would also reiterate the

point, Mr Speaker, and perhaps elaborate on it slightly that the substance of this Bill, this is a big Bill, and much of the substance of this Bill is to be found in the Bill annexed to the Select Committee's report, and so to the extent that this may have any matter which Honourable Member may think takes them by surprise in it, such matters are nevertheless limited to a number of specific aspects of the Bill and one or two or perhaps three or four may be major aspects but nevertheless they are identifiable as specific aspects of a Bill which, not in printed form, but in a typed form was annexed to the Select Committee's report some time ago. I had hoped, Mr Speaker, to perhaps speak later on in this debate, after hearing other legal points which may or may not have been raised, but I will cover the ones which have been advanced so far. So far as the question of whether the Bill applies to the Crown is concerned, there was nothing in the Select Committee's proposals and nor is there anything in the green Bill, if I may use that expression, which in any way changes the law or which is in any way intended to change the law from that which prevails now under the existing Ordinance, there were no new provisions at all as to applications of the Crown. That in itself, I think, wasn't an issue which the Select Committee addressed in any detail, it may be an issue but it is not one of the principles incorporated in the new measures proposed in this Bill. So anything that is said about the application of Landlord and Tenant legislation to the Crown, I think really touches on another subject or a completely separate aspect of the matter. The second point, Mr Speaker, is the question of whether or not aspects of the Bill might be unconstitutional. All I want to say in that respect is that it is not quite correct to say that the possibility of unconstitutional aspects of the Bill was overlooked for a long period of time because in fact the Bill as originally annexed to the Select Committee's report did not have the change which was proposed more recently and which we decided after a very short period of time, on reflection, could cause problems and that is the change that takes away the upper limit of 14 years for the Court granting a new tenancy. I think it would be safer to have an upper limit on the length of the tenancy that could be granted because although I believe I am correct in saying that no court case in Gibraltar has yet successfully challenged the question of whether rent controls are unconstitutional there has been at least one case which was decided some two or three years ago where the judgement did come quite close in one respect to perhaps sounding a note of caution that there must be overall criteria on limitation so I think it is necessary to have an upper limit on how long a new tenancy can be granted for. So far as the Rent Tribunal is concerned the provisions on rent tribunal are not really directed towards saying you only need a quorum of 3, not directed towards them in the sense that it is concerned to establish a quorum as such. To understand it I think it is necessary to go back some years, some two or three years or perhaps to 1979, when we were having problems of being able to fill the rent assessment tribunal and that this measure actually is an updated version of an earlier proposal that was intended to eliminate this problem purely from a machinery

point of view, and to eliminate it by in effect establishing a panel from whom a three man tribunal could be constituted at any time and that is why the Bill says that there are seven, I think, members appointed to the tribunal, including a Chairman who must be legally qualified and including a deputy Chairman who must be legally qualified and any three members can at any time constitute the tribunal providing one of them is either the Chairman or the Deputy Chairman. As I say it was not intended to undercut the normal law for a quorum which is commonly a majority or half plus one, which is the same thing I think, but it was intended to enable elements of the tribunal to sit and if one of the lawyers couldn't sit or some of the members couldn't sit one week then any other three, including a lawyer, could sit and deal with the matters before the tribunal. That was the purpose of that. Mr Speaker, an important aspect of this Bill, I think, one to which importance is attached, is the question of how long a property remains a statutory tenancy. In other words, who are the statutory tenants and the purpose of the Bill in this respect, the intention behind the Bill is quite clear, namely, that you have your statutory tenant on his death it passes to certain members of his family, on the death of the one to whom it passes it may pass once more to a member of the family but after that the process of succession has ceased. Whether or not it achieves that and I am not at all persuaded that it doesn't achieve that, but whether or not it achieves that I think is really a matter of drafting detail rather than a matter of policy and will be looked at as such. But the intention is certainly that there should be succession twice and then the run of the statutory tenancy should cease. Generally, Mr Speaker, on the question whether or not particular clauses achieve what is desired or may not achieve what is desired, is one which I think is more appropriate for committee. I cannot help commenting that the difference the Bill is that unclear I am not quite sure why members are able to identify so easily the points that concern them, it must be at least clear to that extent. There is an important aspect to the whole Bill which is what I would call the transitional aspect of it and there are transitional provisions in the Bill already which are to be found at the end but in the course of debate some points have been made and I think that those transitional provisions do require as a matter of detail some further additions or amendments to make sure that while on the one hand the Bill proper is speaking about the law as it will be for the future, the transitional parts will cover the situation of existing properties which have to be brought under the regime and there will be proposals in committee to deal with that and some of those have been outlined already. I was not invited to go through the Bill clause by clause as I think that is a matter for Committee Stage but if I can give a very general gloss on the layout of the Bill. Basically, what has been done is to break up the legislation up in distinct elements, the usual preliminary provisions for any statute of this nature, in which I have tried to bring forward as many definitions as possible because at present they are split up throughout the Ordinance in many respects, the existing Ordinance, and it is much easier to look at them as a whole

at the beginning to deal with the administration that needs to be set up to carry out the intention of the Ordinance. Then to deal with domestic premises, then to deal with business premises and finally, to deal with matters of general application, I am leaving aside the Schedules, of course. I would draw attention to the fact that one very important provision of this Bill, because of the way it is structured, what is found now in Section 3 of the Landlord and Tenant (Miscellaneous Provisions) Ordinance, that is now found at the beginning of the general part of this Bill and that is the provision which is the grant of relief clause, which says in effect that apart from all other provisions of the Bill, apart from all other provisions, the court has that residual discretionary power to decline a remedy for possession if it thinks that there will be undue hardship. That provision, which is an important principle of Landlord and Tenant legislation is preserved and it will be found in the general part of the Bill instead of at the beginning where it now exists. Another particular point which was made, Mr Speaker, by one Member was whether or not the Rent Tribunal will be able to charge fees for what it does. The answer to that is yes, and that will be found in Clause 80 of the Bill under which regulations can be made to enable fees to be charged for the proceedings before the Rent Tribunal. Whether or not such fees are chargeable Mr Speaker, I think depends very much on the philosophy of the Government because there is a view that whereas you may have to pay fees to go to court, rent tribunals are a more informal administrative system, or body, and that it may not be necessary to charge perhaps such high fees for the proceedings before the Rent Tribunal as such. One other general matter I would like to touch on, Mr Speaker, is the question of the jurisdiction of the court, the question of which court should have jurisdiction for the purpose of the business premises and the Minister has already indicated that the Bill will provide now for the Supreme Court to have jurisdiction and I think that I may say as well as the Minister that that does reflect I think a fairly widespread feeling amongst people whose business is to deal with legal matters relating to business premises under the Ordinance. So far as two things are concerned, first of all, whether or not there will be a backlog of work at the outset, and whether or not work in the supreme court can be handled speedily is concerned, it is perhaps unnecessary of me to observe in passing that there are now on the Supreme Court two judges, so that I think is a good reason why matters under Part 4, under the business provisions of the Bill, can conveniently be referred to the Supreme Court which will at the same time meet a desire which was quite widely expressed to retain the jurisdiction to that court in relation to business premises. Mr Speaker, notice has already been given that there will be a number of amendments being moved in Committee and the Government will be in a position to circulate these shortly.

HON A J HAYNES:

Mr Speaker, whilst speaking on the general principles of the Bill, I would like to refer also to the general principles which concern the relationship, the legal relationship, between

a landlord and a tenant. As far as I am concerned, this legal relationship should be as loosely defined as possible. It should be as loose fitting a garment as can possibly be tailored. It must respect, therefore, the principle of the right to own property and by property I include not just real estate but property in its more general form. It is a policy which I think everybody in this House, all Members would subscribe to, and Landlord and Tenant Ordinance is, perhaps, the Bill or the law which most closely constrains that right to ownership. As such, it is a traditional parliamentary or legislative example of where the right to ownership is eroded. In the circumstances, any legislative body must be cautious when looking at a Bill which will further erode the right to property ownership. Of course, the reason why an erosion has taken place is because where you leave two parties to negotiate and one of them is in an unfair position, you have an even greater social evil and that is extortion or exploitation and of course, if man is not civilised enough to be allowed to negotiate fairly, then the legislature must intervene to ensure that that social justice is maintained and that is the only reason why there is a need for a Landlord and Tenant Ordinance. But, of course, when you regulate the position between these two parties, each will see justice from his own point of view. I only agree with my Honourable Colleague, Mr Lodo, I think, on two points, and one of them is on this, and I also support the Honourable Minister for Medical and Health Services. He stated that this Bill cannot possibly be to everybody's satisfaction. But one must go further than that, Mr Speaker. Justice is obviously subjective, in this case it is subjected to the 15 Members of this House who are considering the matter, and as regards the position of any landlord or tenant, it is relative and comparative. And the word comparative is a very important one in assessing the justice of the matter and it is something which has been created in this century. The whole of the concept of comparative justice for landlord and tenant has come about as a result of Government responsibility in housing. But before I go into that particular point, Mr Speaker, I would like to further this point which has been highlighted by my Honourable Colleague, Mr Bossano, and put up to ridicule. It is not a matter for ridicule that the matter of this Bill will not be to everybody's satisfaction. What is most important, Mr Speaker, is that whilst not everybody is happy with the entire contents of the Bill, that most should be happy that as far as some of it is concerned it is exactly what they want and other parts may not be exactly to their liking but at least they are acceptable in the sense that the entire package is acceptable. It would be far worse if the package were not acceptable to one particular part of our community. Such a Bill would be against the democratic principle which, in my view, the secret of democracy is respecting the rights and the views of the minority without holding the majority to ransom. In a Bill of this nature where we are talking about the subjective matter of one's individual pocket or justice, it is of course a very difficult area to judge on. But when one considers whether in fact this particular Bill has achieved that balance, we must consider the factors which fall from one

side or the other, the relative and the comparative pressures, as I cited before. I think the fact that Government has a responsibility in housing, is, in my view, the most important factor when viewing as members of a Select Committee, the Landlord and Tenant Ordinance. It did need revision and here we have an alternative. I do not think that the future of the landlord is a rosy one. If one looks at it comparatively, we now have a public landlord - Government - and no private landlord can possibly compete and so the tenant of the public landlord will obviously be in a far better position than the tenant of a private landlord and the comparison they make between their own position, those of a private landlord and those of the Government landlord, the comparison will not be in any way favourable to the private landlord because the private landlord cannot subsidise his tenants both in rent and repairs and the Government can. And today we note, and it is socially acceptable, that we have subsidised Government tenants and the subsidy in Gibraltar, as far as tenants is concerned, is not based on a means test, it is widespread. We have a subsidy which runs to the tune of £1.5 million or something of that nature. We have Government, a public landlord, subsidising the rents of the tenants. We also have that same public landlord subsidising the repairs of the property so that if the rent of any particular estate comes to the figure of the costing which the Public Works, for instance, may submit as the repair figures, then Government does not say: "We are not going to do it because the rents are not equal to that". No, Government effects the repairs if it has taken the decision, politically, to do the repairs. A landlord cannot possibly do that. A private landlord cannot compete with the Government landlord. In the relative term, which is also the other matter which one must consider when assessing the justice of the Bill, we have in Gibraltar, we are talking about our own situation, the relative matter concerning rent restriction. Which tenant in Gibraltar is going to be happy paying £40, £35, £50 a week when he knows that somebody else has an even bigger flat for which he is paying £5 a month? How can that tenant ever be happy with the rent he is paying on a weekly basis? And it is on this particular point that I would take my Honourable Colleague to task, I found his intervention was, as always, inspired, Mr Speaker, but he didn't have the courage to say that rent restriction should come to an end and that, really, is something which must be said. I remember that he stated, however, before the Select Committee was appointed, and he has not repeated it now that the Bill is here.

HON J BOSSANO:

If the Honourable Member will give way. What I have said is that a Bill that was brought to this House in 1981 and which was promised in 1979 to rent restrict unrestricted properties, has now been transformed into a Bill that removes the restrictions where it existed as has just been confirmed by the Hon Member. If that is not shifting the Bill in favour of landlords I do not know what it is.

HON A J HAYNES:

Mr Speaker, the Honourable Member has missed the point that I was making which is that rent restriction is one of the factors which has resulted in the difficulties which the Select Committee faced when assessing the justice of a new Bill. That really brings me back to the point. The loose fitting legal garment which I would like to see in relation to the Landlord and Tenant Ordinance is desirable because where a legislative body interferes between landlords and tenants or, indeed, any parties you find that it is impossible to draft legislation which will fit every single event which will meet the circumstances of every single case. And also that legislative body, for good or for worse, is subject to political pressure. The Government of the day is not the Government that has been in continuous power since the measures were introduced since they introduced rent restriction and no Government that has been in power has felt strong or able to remove rent restriction whether they agree with it or not. That is one of the problems, when you introduce legislation of this nature it is very difficult to undo. In the circumstances, rent restriction I believe has led to a great deal of the problems which face us today. And at this point I would like to stress the fact which no-one seems to make, that the landlord and the tenant are all Gibraltarians, they do not belong to different races. People take advantage when they are in the hot seat. I know it is fashionable only to criticise the landlord and I do not defend the landlord who exploits, who would? But I would stress that the comparison can be made between that landlord who charges £50 or £60 a week for furnished accommodation which is not rent restricted, ie one who is making a hefty profit, a comparison can be made between that man and that tenant who lives in rent restricted accommodation and has done so for umpteen years and has paid nothing and has not complained that he is paying an unfair rent. We have had as many examples of tenants, therefore, who will take advantage of that situation as of landlords because they are all people, Mr Speaker. And if as I say, the demise of the private landlord is here, it has got to be, there is no future for the private landlord, people will not tolerate the position of the private landlord in the same way as the future of domestic servants came to an end in England after the First World War. The relationship between master and servant for perfectly different reasons became obsolete, it became obsolete, Mr Speaker, it was no longer socially acceptable. In different circumstances the private landlord has come to an end of his use in our society. In those circumstances, Mr Speaker, I sought to end finally his role, and who is going to replace him, Mr Speaker? Two persons, the Government, the public landlord, and the home owner. I would like to see Gibraltar populated by people who own their own homes and I am sure that that is what we all subscribe to. Certainly the Committee in its report says that that is one of the aims it wishes to achieve. But I do not see that we will ever achieve that unless we take the bull by the horns and say no to rent restriction. I know that to say no to rent restriction will bring a series of very genuine worries and

problems to those who live and presently occupy rent restricted accommodation. My only concern is to say to those that they must at some point, at somewhere or other, they must actually put their trust in the legislature. If there is good faith in those who want to bring an end to rent restriction then it will be done in such a way as to minimise, if possible, the adverse effects or the dangers or the pitfalls that lie in the way of dismantling such a structure. This Bill, however, Mr Speaker, when one assesses it, and may I first of all state that it is an improvement, in my view, on the previous Bill, on the previous Landlord and Tenant Ordinance, and it is also an improvement on the Select Committee Report Draft Bill. Nevertheless it has serious failings, a number of which have been highlighted by my Honourable Colleague, the Leader of the Opposition, and one also which has been highlighted by my Honourable Colleague, Mr Bossano. As regards the point made by Mr Bossano, I am concerned at the point that he made that if the legislation specifically states that dwelling houses built post-war and after 1954 will be covered by this provision of exploitation which is the old Section 13 in the last Ordinance, that this would not apply to other flats because I think it could be construed as exclusive legislation so that any tenant pleading exploitation on the part of the landlord in respect of a flat built post 1954, would be excluded from such a plea on the basis that the legislation specifically deals with the matter and restricts its implementation to post 1954. If I may bring to the attention of the Members of the House when and how this particular Clause is introduced. It was introduced really as a test section, as I remember. The idea was that we weren't sure what to do in respect of furnished accommodation, what restrictions, if any, to introduce, and we thought that at least a comparative figure for reasonable rent would be appropriate, but, of course, we do not know whether this section will be invoked or used or implemented or relied on at all. In my experience, Section 13 certainly hasn't been used for the last 10 years in the Gibraltar courts. But to get a section like this one off the ground there is no reason why in fact it should not apply to all accommodation. The way one could get this section to provide some security from exploitation and when we are talking about exploitation we are talking about totally unreasonable demands on rents, and we know there are one or two incidents in Gibraltar of such a matter, then, surely, the answer to that is to have something like a community lawyer, Mr Speaker, who can be made available, I am not offering my services, Mr Speaker, who could be made available to the community at large without the risks or the fears or the inhibitions which seeking legal advice and the costs that that can pose, may put off people. The Rent Assessor is already involved in this but the idea of a community lawyer to advise on this is all we require. I am very glad that this section is something to be adjudicated by the courts. It is a proper matter for the courts to consider the reasonableness of rent. And the only way that we will see this section control those unscrupulous landlords, is by having that section implemented frequently. If the courts are going to be able to decide on the reasonableness

or otherwise of any given rent, then they must have a file of precedents, and they will only obtain and they will only attain that kind of expertise through practice. If we are to afford, the people of Gibraltar, the kind of protection which this section seeks to afford, then we must ensure that it will be relied on and used as frequently as possible and that I think will only be possible through the services of a community lawyer to whom someone who applies would be required to pay a minimum and standard fee. It would not be completely free, there would be a payment of say up to £50, to avoid frivolous requests. As regards the other point which I think requires amendment in the legislation, one comes to the point made by the Leader of the Opposition relating to that rather emotive issue which is the terms of notice in respect of business tenancies. I cannot help feeling that we still haven't got the right mix. I know that we have come closer to a fairer assessment by removing the old terms of accommodation but I still think that we have not got the right mix and I would like to see a clause that may be operated by the tenant which enables him to buy a 99-year lease. I would like to see a landlord obtain possession without (1) either such a long wait or such a high amount. I think that when we are talking a rent of say £8000 per annum and the landlord is expected to pay £48,000 that really is unrealistic, it is too high a sum so perhaps the courts could be relied on to arbitrate. Mr Speaker, I find that a court given a discretionary power is able to apply justice to the circumstances of a case whereas a legislative body apply a rule which is applicable whether the case meets those requirements or not cannot help but make blunders, make instances of sacrifice. In the previous Ordinance, which is already outdated, regrettably, those powers which were discretionary and developed on the court, were not used and the vast majority of lawyers, especially in relation to the private dwelling side, I think, did not even attempt to even use those discretionary powers of the court which were open to either landlord or tenant and the courts for the most parts, were kept out of the picture. That has been caused, in my view, by the lack of accessibility to the courts which should be obviated by a community lawyer. That is why, for instance, Mr Speaker, Action For Housing can send me and can make known publicly the enormous amount of cases where tenants have been in situ, paying rents where there is no Section 74, where there is no application under Section 25 to the courts, ie Mr Speaker, cases where tenants have occupied premises which are rent restricted and which they have taken no advice on. A community lawyer is required to prevent that sort of fear of going before the courts, to obviate that fear, and also to take to the courts, because you are not risking your client's money because you are a community lawyer, the kind of cases which we require to have the discretion of the court built up through practice. I would like to see in so far as the notice to quit side of things, the court having power to decide on the justice and the merits of any given case within the framework granted by the legislation. Regrettably, the courts are not invoked enough, in my opinion, in this particular Landlord and

Tenant Ordinance. Mr Speaker, another way in which you avoid the legislature being clumsy and in imposing a series of rules which may not apply to every case, is by adopting a different principle, and that is that Government should subsidise the tenant and not the flat. In that way, again you have recourse to judging the merits of each individual case which allows for fairness. That is the principle which is not apparent in this legislation except for the provision under Section 35 and although it goes far enough in so far as it is there, it does not really promise a change of policy which I believe is necessary so that we are looking to the tenant and not to the flat. Mr Speaker, in the brave new world where we genuinely try and tackle the problems between landlord and tenant we would also seek to have uniformity of action from the landlords. I would like to see, Mr Speaker, Government making representations to the landlords association to ensure that their reaction following the introduction of this Bill is one of a uniform approach. We would not like to see some landlords taking immediate advantage, others holding back, and so forth. I think there ought to be some asset to give the private landlord, insofar as possible, a corporate view, ie give it the kind of uniformity which Government, as a public landlord, can apply. Otherwise, Mr Speaker, we run the risk of once again stirring up those social problems which have resulted and which have lead to this particular Ordinance being revised. As it is, Mr Speaker, the Leader of the Opposition complains that we will be in January looking through a new Landlord and Tenant (Amendment) Ordinance, I am saying, Mr Speaker, that this Landlord and Tenant Ordinance does not go to the fundamental problems and as such, it will be plaguing us, it will be a political hot chestnut for generations to come. I think the legislature must have the courage to do away with the discrepancies of those things which may lead to social injustice, and I think that rent restriction is the greatest of all of them, Mr Speaker. And coming to that point, on the specifics in this Bill, I know the view of the majority of my colleagues is to perpetuate rent restriction, but having said that, Mr Speaker, there is only one light which gleams at the end of this tunnel, Mr Speaker, and that is that the rents have been brought up to a more realistic figure. That may, Mr Speaker, encourage that trend for home ownership which I prescribe to because it may make the rents realistic enough to be equivalent, perhaps, to the mortgage payments which the tenant would have to undertake in order to make a purchase. Finally, Mr Speaker, I think there is one flaw in that, I will not go into the quantum of it, I will go into the assessment. I don't think that there is a case to have the 100 foot maximum for a square. It appears as the second paragraph in the First Schedule, Mr Speaker, a square means 100 square feet of the floor space of a dwelling house. This leads to very complex computations when assessing rents for a flat. I think that the square should mean whatever the square size of any given room is. I am not having this sort of arbitrary idea of size. Again, whilst talking on the specifics of the Bill, Mr Speaker, I had one small point to make in relation to Section 32 is this section whereby a landlord who wishes

to develop pre-war accommodation may do so. Here, under Section D, the whole thing would come to an end of one sticks rigidly to that Clause which says: "No undue hardship will be caused to any tenant of the dwelling house by the structural alterations". Well, I think it would be too easy to make a case for hardship in the sense that one is deprived of space, in the case of every tenant. But I think, Mr Speaker, that there again we have another Clause where the courts should be allowed some discretionary power beyond that of hardship. I think that the court should be entitled to refuse the development if they feel the hardship in the circumstances is great, because there is always going to be hardship, Mr Speaker, or if they think that that hardship can be redressed by financial compensation, then the courts should state what the amount of that compensation should be and make that order. And so, Mr Speaker, I will be moving an amendment to Section D so that the courts would be empowered to assess whether the hardship is such as to stop the development or order compensation to be ordered to the tenant. The reason why I stress or I even consider the idea of changing this section, is because, again, Section 22 is another of those sections which may lead to home ownership in Gibraltar. It is one section which deals directly with rent restricted property. I think it is common knowledge and perhaps the House will take note that most rent restricted flats are far larger than present modern day furnished flats. And as such, Mr Speaker, those large flats are suitable for conversion and as such they will lead to an increase in the housing stock of Gibraltar and, Mr Speaker, one would hope that when the conversion has taken place they will lead to a sale rather than to renewed letting. But again, Mr Speaker, that is the principle of home ownership. If Government do subscribe to home ownership, then I ask that they take seriously the proposed amendment to Section 22D. And also, Mr Speaker, whilst we come to the point of home ownership, we should also have from Government in the same way that they have gone to the trouble of entering Section 18 which indicates that Sinking Fund contributions by the landlord will be beneficial to income tax return, which I think is a good measure, one which I remember I initially proposed in the Select Committee which was over-ruled but has now come back, I am glad to see I would also ask that Government - I think the Chairman looks askance, but if he checks his records he will find I am right - the other matter, Mr Speaker, is that if they have gone to the trouble of introducing Section 81, I think they should also introduce legislation to enhance home ownership by giving the landlord the kind of incentive to enter conversion and more especially, Mr Speaker, by giving the tenant the kind of incentive to take on a mortgage. This may mean long-term mortgaging facilities which are not, regrettably, available in Gibraltar, being financed or partly financed by Government. Whilst I am on the subject, Mr Speaker, I would like to see all that kind of incentive going to both landlord and tenant for improving their housing stock. Financial incentives apart from just income tax incentives. That is the only way, Mr Speaker, through pride in your home and through fiscal incentives and through under-

mining rent restriction that we will obtain home-ownership. Otherwise, Mr Speaker, we are just paying lip service without doing anything to further that aim. I know, Mr Speaker, and I have limited faith in Government, I do have some, I am sure they will be proud and glad to hear, that they will take seriously these suggestions. I think I have spoken far too long and I shall sit down, Mr Speaker.

HON CHIEF MINISTER:

I think the importance that is being given to this matter is well shown by the time that has been devoted to it. In the first place, the big debate on the original Bill by the Government which led to the appointment of a Select Committee, then the work of the Select Committee, then a debate on the Select Committee's Report, and today; on the Second Reading, we have spent a whole day, virtually, and we have not yet finished, though I don't think it can take much longer if only because most Members have spoken. I do not think that anybody can accuse, Members or the House of not devoting sufficient attention and time to a matter of this nature. Lest the remarks made by the Honourable Mr Loddo might lead other people to think that they have been remiss in declaring an interest, let me say that everybody has got an interest because everybody lives in a house in one way or another and, in fact, it is not one of those cases in which an interest must be declared because an interest to be declared, according to the ruling as far back as 1811 of Mr Speaker Abbott, the interest must be a direct pecuniary interest separately belonging to the persons whose votes were questioned and not in common with the rest of Her Majesty's subjects or on a matter of state policy, so that we all have an interest and I am not saying that the Honourable Member was wrong in saying that he had an interest except to say that if, in fact, it were the duty to declare an interest we all have the same duty but my view is that there is no duty because it is like when you are dealing with taxation or you are dealing with any matter of a general nature that you have the same interest and duty as all other subjects and not a special one. But, anyhow, either you rent or you own a property if you live in one or you are allowed by your mother-in-law to do so. The other point I want to stress is what I said at the last debate and that is the difficulty of a small legislature with the same number of people having to do a number of functions and therefore the Select Committee consists of prominent leaders of the Opposition or shadow members of the Opposition, because there are no other kind of Members because of our size, and Members of the Government who are also Ministers. It is the same difficulty that occurs with the Public Accounts Committee where really, strictly speaking, it should be made up of people who are not directly concerned with the front bench on one side or the other as would be the case in the House of Commons. That is the difficulty and therefore there stems the fact that once the Select Committee has reported the Government has got a duty to take a view, whether it is a right or a wrong one, and propose a measure as a measure of Government. As regards the question of a free vote, of course,

that is a matter for each side to decide when it has a free vote, there is no question of having to agree on both sides, each party can have a free vote if it so wishes. As far as we are concerned, in this case we assume the responsibility the Government has in a matter of this nature and therefore those who voted in the Select Committee have, naturally, conditioned themselves to the majority view of the Government and have, in fact, perhaps convinced themselves of the righteousness of the decision of the Government. That is something that has to be borne in mind when we talk about the question of saying one thing in one place and then differently. I don't know who it was, I think it was Mr Bossano or Mr Loddo, I can't remember which. No, I think it must have been Mr Loddo because he said the attempt that had been made in the Select Committee to make a law that was simple and did not need lawyers to interpret it into lay language. Let me say that first of all there are two sets of legislation which have been attempted to be drafted in simple language. One is the original Landlord and Tenant Controlled Rent in 1923 in England which led to the 1933 Act in Gibraltar, and the original Workmen's Compensation Act. And because there was an attempt to put it in simple language it led to more case law, more difficulties than if it had been drawn in what is called lawyers' jargon. It may be interesting in this case to note that a Committee of the Judicial Review Body was appointed to advise on simplifying on the codification and drafting of laws and they published a very obtruse and difficult report saying how laws could be simplified so that really when you come to deal with intricate matters, sometimes to simplify the language really brings in much more doubt than to set it out in what a layman would call lawyers' jargon. Therefore, I think that any hope that legislation nowadays, though there is always the wish to make it, at least, understandable to the lay person, that legislation is simple in the complicated matters in which it deals, unfortunately it is just not possible. What has happened, I think, in this case is that there have been so many expectations by one side or the other as to what the Select Committee would report and then the Select Committee Report which was made public, that people have put up their hopes of what they can get in respect of both sides. The tenants thought that it was going to be a tenants charter and the landlord perhaps thought that it was going to be a landlords charter and whilst some concessions have been made for which some support has been found by the Honourable Mr Haynes in respect of one aspect of the matter to the landlord, that is the question of not having to offer alternative accommodation in respect of business premises, that is only in the context in the number of concessions made to the tenant which are much wider than the law exists today and the proposed changes in the schedule will take that much further, the further changes that will be circulated in a moment as to the 5th Schedule will show to what extent. Of course it is very difficult to say what is a fair balance as between one body of interest and the other but of course I do not subscribe to the suggestion made by the Honourable Mr Haynes that all properties should be decontrolled and start afresh. In fact, one would be inclined if one were

taking that to a point where all property should not be nationalised, if that were the case, because there is this idea that the Government because it has undertaken a duty, not a statutory duty but a political duty, I think, accepted generally to provide housing to make up for the lack of provision of accommodation in 250 years of colonial rule before the war, have been burdened with that responsibility and have had to do it in a way that has some relation to people's earnings, does not justify in my view the fact that the Government as landlords are in competition. But it is true that the Government has built more houses and that the bulk of the private property which is controlled nowadays is property built long ago. I think that one of the arguments stated by Mr Loddo about how long can a building last and what is the comparative cost to the rent, I think deals with one aspect of the matter that has not been highlighted certainly in today's debate which is the most important one and which is covered by the increases in rent proposed in the draft Ordinance and that is that the older the building is the more expensive it is to carry out repairs and if the repairs are the responsibility of the landlord the more expensive it is in comparison with the rent received. So that whilst, perhaps, old buildings were made of bricks, mortar and lime it may have been cheap at the time but perhaps to maintain that it is much more expensive than to maintain a properly built house. One of the aims in recent housing construction of the Government though a little more expensive and which is shown in the Rosia Dale complex and other places is to build houses in such a way that particularly outside maintenance is reduced to the minimum because of increasing costs. I don't think that there is anything that was controlled before that has been decontrolled, therefore the Ordinance is really more in favour of tenants than of anybody else. Whether it has eaten up sufficiently into the landlord's rights or not is a matter of judgement but certainly this cannot be described in any way as a landlords charter, or anything like that. In fact, it could more properly be described as a tenants' charter though perhaps it does not qualify for a charter because the proposals may not get far enough in some people's minds. I think after the considerable amount of time that we have devoted to this, we have struck a fair balance, perhaps we can strike a fairer one in the course of Committee Stage in respect of certain particular items. It is bound to be controversial, it always is controversial because as I think Mr Haynes mentioned, there are two conflicting interests in this as so long as there is private property in existence there is bound to be a conflicting interest between the owner and the occupier be it for business premises or for dwellings. Therefore, whilst we do not say that we have struck the right balance, we have certainly attempted to do so and perhaps maybe after a while there may be amending legislation. I hope not very soon after, but I think we have a better bill now than the present Landlord and Tenant (Miscellaneous Provisions) Ordinance, more protection for tenants of business premises particularly and for some part of the private sector dwellings and therefore I think rather

than have another delay in this matter we should see to it that it is enacted, that it is brought into force at a time reasonably soon to cover the need to appoint a Rent Assessor and a Tribunal. And the question of the assessment tribunal brings me to the point made by Mr Haynes about a Community Lawyer. Well, I do not think that we can announce that there will be a community service the same as we announced that there was a counselling service before the divorce law was enacted, but I think that the point made by the Attorney General is particularly important and that is that a rent tribunal is a much cheaper venue for people who can appear themselves if they want to, than taking the matter to court in respect of dwellings. Perhaps that may lead to having a community lawyer at a later stage but I don't think we should have any illusions that we can tie that up at this stage with the appointment of a community lawyer. In respect of the business premises we have done, for the reasons explained by the Attorney General, what was initially pointed out by the Leader of the Opposition at the first debate, that it was not right that business premises should be dealt with by the Court of First Instance. I entirely share that view and indeed it would be very cumbersome for the Court of First Instance, which is manned by the Magistrate, to be able to deal with the kind of cases that are dealt with in the case of business premises and now, as the Attorney General has said, with the appointment of a second judge they are in a better position to do so, and no doubt with the help of the Rent Assessor the process of these cases in the future will be much quicker than it is now. I think we should perhaps have had better case law on the present legislation about standard rents if people had had the courage to take cases to court and not settle outside for fear of either competition or the fact that the owner might say that he wanted it for himself. I think the safeguards that have now been provided go a long way to taking away that inhibition of tenants whose tenancies have been finished to take the cases to court and to have after that a line of judicial decisions that would give a better idea both to the landlord and to the tenant after a number of cases have been decided of what the trend is and what the likely result is and therefore who can better judge whether it is worth its while for one side or the other to go to court or not. For these reasons, Mr Speaker, of course, I support fully the Bill.

HON G T RESTANO:

Mr Speaker, may I start off first on the question of business premises which I think is very heavily weighted in favour of the landlords as far as any eviction is concerned. At the moment what the Bill tries to do, or at least what the Select Committee suggested and recommended, was that where a tenant was evicted from business premises by his landlord, the landlord had to provide or find alternative accommodation. I know that it is very difficult particularly in Main Street to find alternative accommodation and the Government then decided that it should be either alternative accommodation or compensation. I think the type of compensation that is

being projected is far too low and I will go into that in a moment. But the point is that the choice of either finding alternative accommodation or granting compensation is the landlord's choice and I think that it should be the tenants choice to decide whether he wants alternative accommodation or compensation because I think it is only fair that if a tenant has been occupying premises which are after all his livelihood and he may want to leave that particular business to his children, I think it is most unfair that he should just get compensation which certainly will not allow him to live off, and precluding the right to pass on his business to his children. Therefore I think there should be an element of choice for the tenant as to whether he be given alternative accommodation or compensation. As far as the compensation is concerned, if we take somebody who is paying about £500 a month, who has been.....

HON CHIEF MINISTER:

Sir, if I may just interrupt, the Honourable Member might have the advantage of the new Schedule that has now been prepared by the Attorney General that deals with the review of the 5th Schedule.

HON G T RESTANO:

I will carry on on this one. Somebody who, say is paying £500 a month and has been in situ between 5 and 7 years, and I have taken that one because I think there is a misprint in the law on page 300, Mr Speaker, "Duration of Current Tenancy No.2". It has been put for more than 5 years but more than 3 the word "rent" has been left out. Taking that particular case, that tenant would, under the Table, be paid compensation of about £15,000 and he may well have spent between £7,000 and £10,000 already in putting his shop in good condition so I think that the type of compensation that is in the table at the moment is too little. I would like one or two questions answered by the mover when he winds up the motion and one of those is if and how are existing leases affected by the introduction of this new Ordinance. There are leases whereby perhaps it has been agreed that the tenants should do work which is normally the responsibility of the landlord and under the Bill the landlord has certain responsibilities. Does that mean that this Bill will overrule existing leases or whether existing leases will not be subject to the Bill? Something else that I would have liked to have seen in the Bill is a system for increases in rent. I think that it is Clause 52, Rents Under New Tenancies. I would have liked to have seen increases in rents to be linked to inflation. On the question of furnished accommodation, I must agree with my friend,

Mr Loddo, that in some cases furnished accommodation has been substandard. I don't think it is so in all cases but it has been fairly widespread and I would have thought that if one wants to get furnished accommodation put on the right scale, the way to have done it would have been to have insisted on certain conditions for those flats to be in, rather what to my mind is totally ill-conceived and that is that the furniture put in should be amortised over 8 years. If the object of the exercise is to finish with furnished accommodation, well, then the Government should have come out and said that because, in effect, furnished accommodation will disappear under these conditions. What are the conditions? The actual rent to be paid is the same as for unfurnished accommodation plus the amount of the furniture amortised over 8 years so it means that at the end of the 8 years, let us say the landlord would have spent £10,000 on furnishing a flat at the end of the 8 year period he would have had repaid to him £10,000 and probably have no furniture left at all because it is a well known fact that in furnished accommodation the furniture does not normally last a long time because people do not take care of it very well. As opposed to that, if at year 1 he had invested that £10,000, at the end of the 8th year he would have doubled his money so it is in fact more convenient for a landlord to let out his accommodation unfurnished than furnished. If the point of the exercise is to do away with the furnished accommodation, well, make that illegal but do not try and get around it by hiding behind legislation which does not say straight away that the object of the exercise is to do away with furnished accommodation. One point that I would like to raise on Clause 19, which is where on a temporary basis a landlord has to carry out repairs, the tenant has to vacate the premises. I think that there should be an element of compensation for the tenant. I know that if it goes to court then the court can order the landlord to vacate but a landlord could take a very long time if he so wishes to carry out repairs and it is very difficult for tenants on a temporary basis to find alternative accommodation. I also thought it was a pity that there is nothing in the Bill to cover empty accommodation and I think that that certainly should be included particularly in Gibraltar where housing stock is so limited, to allow empty houses to remain empty when there are people living in bad conditions because there is not sufficient accommodation. On the Rent Assessor, I don't think that one Rent Assessor is going to be sufficient for the first 12 months. There is, I think, a likelihood that if it is only one assessor he will certainly not be able to get through the work that I think is likely to come before him. I wonder whether it might not be an idea to try and get more than one assessor on a temporary one year basis. One last point, the actual increases in rent for unfurnished accommodation. I remember when we discussed this matter last

time we were told that it would be in the region of 100% or 200%, then I think the Honourable Mover wrote a letter to the Chronicle some time after the debate where he said that the increase would be something in the region of, please correct me if I am wrong, 80% of present or current rates. I think that is what he said in his letter and I don't think that that is correct and I would ask what, in fact, is the increase from current rents where £60 per square per annum is the new rate for unfurnished accommodation. Thank you, Sir.

HON MAJOR R J PELIZA:

I must say, Mr Speaker, that I feel very proud to have listened to the debate on this very important issue in the manner that it has been conducted in the House since this morning, and in fact it is a matter that has been the concern of every Member going back a few months now. The work put in by the Select Committee has proved invaluable and no doubt the amount of work put in by the Honourable Attorney-General and all Members of the Government as a whole. I have no doubt in my mind that they have tried to be as fair and just as possible. It is a very difficult task, it is like juggling with three balls and having to keep them on the air all the time, that is, looking after the tenants, looking after the landlords interest and above all ensuring that there is going to be development so that the housing stock and other property continue to develop. It is not an easy task by any means and it is not surprising, Mr Speaker, that it has taken all this long to arrive at this stage. But whilst the Government may find themselves compelled to go ahead in what we may think is quite an incomplete state, I don't think you can ask the Opposition to follow the same line because it is not the responsibility of the Opposition that the Bill has not come in a much more complete state than it is. My Honourable Friend the Leader of the Opposition very quickly looking through it, found a number of loopholes already, without having applied all the concentration of his legal experience in defence of the client, and, in fact, thinking more on the side of the Government than of the client, has already found all those loopholes. It is going to be very difficult for us therefore, to be able to tell the Government that we are going to vote with them in this Bill. It would be unfair to the Opposition and unfair to all the interested parties in the Bill, the tenant, the landlord and developers. You cannot ask us to do that. It would be improper for us to do that. Therefore, when we do vote against the Bill, it must not be taken in any way as an aspersion against all those people who have put so much work into it but it is a responsibility that we have to fulfil and we are going to fulfil it in the proper way that we should. I am not going to go through all the points, far from it, Mr Speaker, because it has been very well done by almost all the Members

who have spoken and it is understood that there are different points of view. We have, for instance, the two extremes, the one of my Honourable Friend Mr Bossano and that of my Honourable Friend Mr Haynes. But that does not mean to say that their intentions are not good and that there is no time left to try and see if the two sides cannot meet a bit more than they have met so far. I think the possibility exists. One point that has been suggested is that it should be done in more simplified language. We hear the Chief Minister pointing out that, in fact, that might in itself be counter-productive in that it might cause more misinterpretations of the law than if it is crushed in legal jargon and perhaps there is a lot to be said for that. However I hope that Government, if they do go through with the Bill, as I suppose they will, will bear one thing in mind, that it is important that the layman understands the law because it is only when they understand the law that the law is going to perform the functions that this House intends that it should and will, I think, relieve a lot of work from the tribunals that we are talking about, which we think is going to be choc-a-bloc very quickly once the law comes into operation. I think that where we have failed so far is that we should have produced a White Paper or something similar to that where the law would have been explained in simple language. That has not been done and that is vital because I think that perhaps one of the laws that affect people most is particularly this one. Second to food, I think, comes shelter.

HON CHIEF MINISTER:

If the Honourable Member will give way. I think the report is equivalent to a White Paper in this case. The report of the Select Committee is a White Paper.

HON MAJOR R J PELIZA:

The Report of the Select Committee, Mr Speaker, cannot be distributed in the sense of a fairly simple concise leaflet which embodies the principal points of the law. I say this because it is also better law. When the people understand the law it is easier to govern because one of the vital things in good Government is that the people should cooperate with Government in abiding by the law. I think My Honourable Friend made a very good point. The landlords have tried to get the best out of it, we are all human beings, we must not forget ever that we are human beings and therefore the landlord is going to try and get the best out of it and so is the tenant and as was very rightly pointed out, a landlord is going to try and charge as much as possible if he can get away with it, and the tenant is going to see that there is no charge if he can get away with it, too. There are two sides of the coin

and we cannot therefore just look at it on one side. I know that this House has been trying to find the middle way. Equally, Mr Speaker, when this law gets through, as inevitably it will, I suggest, and this is done in the UK, that there should be leaflets produced which go very much to the point and it is not just one thick one but one particular leaflet applying to any particular thing, like furnished accommodation. I think it is very important that that should be made available to the public. This could be available in any office of the Government because I do not think you want to distribute it as only a person who is living in furnished accommodation will want to pick it up, obviously, other people are not interested. I suggest therefore that this should be done. I don't think the amount involved will be all that much and it will probably save money in the long run in that less people will have need to go to a tribunal where I think the situation will be a little bit overcrowded to start with, if not forever. Just before I carry on, I would like, Mr Speaker, to refer to one point which I don't think has been touched on today, which is an amendment which has just come out on the commercial tenants, and it is a table for compensation. We have heard this business of the sanctity of property and how the constitution safeguards that. We have got to try and realise the situation of Gibraltar, that space in Gibraltar is limited. The cost of building is extremely high. I don't think it is fair to blame the Colonial Government of pre-war days for the situation today. It is not right or proper. The situation in England was just as bad in housing then as it was here, it was the social order of the day. Since then, when things changed in England, happily, they changed here. And in fact, one has to be grateful to the British Government in that if they had not subsidised housing in Gibraltar, I don't think that we would have the housing stock that the Government has got today because we just could not afford it. And even as it is we know, although my Friend made a very good comparison, and I think a fair one, of how Government can subsidise buildings and the private landlord cannot, one point he forgot to make is that the capital investment is not even taken account of as should have been done. We realise that in Gibraltar we are in a very special situation and suddenly to bring out the sanctity of property as the element that is going to govern all our thinking, in my view, is not the correct one. Nor do I believe that if it was put to the test it would be unconstitutional, I do not believe it. I think this element should not be allowed, therefore, to colour our judgement to the extent that it seems to be affecting the judgement of the Government in their final decision on the Bill. And coming back to this point I think it is a very good example of how it can be offensive, that principle can be offensive. When we get to an individual who has started a business and who has been there working for 20 years to build it up, he has goodwill, he has got business, that to me is also property. It is not tangible, perhaps you cannot touch it, but that is just as much property, that goodwill of that business, and is the bricks and mortar from which the business is being conducted from. If that is so, if that is the situation, would it be proper that after 20

years, let us say that the actual figure of compensation is £3,000 a year. All he is going to get after 20 years is 12 x 3 which is £36,000. Today, I guarantee to the House that the stock that he carries in that business is probably worth more than £36,000. And what is more, he would have to sell it. He would have to sell it and, possibly, give it away because there is a time limit, there is a time limit in which he has got to go.

HON CHIEF MINISTER:

If the Hon Member will give way. I did not want to interrupt him because he is taking the matter very properly, if I may say so, but the time element here is shown as the time that the landlord gives to the tenant. The time element given here is the time that the landlord gives to the tenant in order to terminate his tenancy. After that he has got to get an order from the court and then the court decides within what time he has to get it, that is the time to bring the contract to an end, not the time to get possession.

HON MAJOR R J PELIZA:

I see that, I am not quarrelling with that. But the time element in a business of this nature where you know that you have to start destocking to carry on business after you know that you have to close is almost an impossible task. If you are dealing with items that are expensive you have got to make sure that at the end of the day you are going to be left with nothing. Because what compensation is going to do is that it is going to pay for your dead stock and nothing else. And you are going to be left penniless, depending on the circumstances. Therefore, I don't think this is just the answer. I am a great believer that the person who has been after a number of years established in premises in Gibraltar, should have the right to stay there unless they are offered alternative premises of a suitable kind. I am a believer of that in the circumstances of Gibraltar because for reasons I think that have been explained, and are obvious, I am not going to go into that, we all know that we are in a very special situation in Gibraltar, and I am not going to make a case because the case has been made and I think we all know what it is. Mr Speaker, it is very hard that an individual who owns the building suddenly decides that he is going to change his mind and he is going to do business possibly because the individual who is doing business below is doing very well and he said "Oh, yes, that is a good business for me, my family is going take over". And of course there are hundreds of ways and means of doing it and the lawyers will find ways and means of making sure not only that the family does it but if he wants, that somebody else does it, and gets paid much more than he was getting before. No, Mr Speaker, I don't believe that this is the answer to this problem in Gibraltar. I believe it is going to cause a lot of hardship if it comes to the stage where there is a good reason for landlords to take over. All of them will want to take over businesses that were there before if it is a

good business. Let us suppose that the frontier were to open, and we know that at the moment they said they were going to open there were people offering \$45,000 and there are foreigners who can come in with a lot of money, Mr Speaker. I can see local traders losing their premises very quickly because most of the landlords will want to take over the businesses. I have no doubt about that. And I have no doubt either that the lawyers have got the capacity to be able to overcome the difficulties that are placed by the law with the small restrictions that are there unless there is a clear-cut situation whereby the tenant has total right to remain there unless he is offered alternative accommodation. But, of course, I am a member of a party and I agree that you cannot always have your way. It would be absurd, it would not be democratic and one has to go with the view of the majority, that is party politics and if we don't have that then we don't have party politics and that to me is even worse, that on one occasion I get my way and on another occasion somebody gets his own way because in the end none of us can produce a policy and therefore I think it is proper that we should abide by the wishes of the majority. In the same way that we abide by the wishes of the majority of the House we must abide by the wishes of the majority of our party. That is my view, Mr Speaker. Having said all that, Mr Speaker, it is clear in my mind that the Bill that has been introduced to this House, has been rushed through and we are not prepared, Mr Speaker, to buy a loaf which still has not really been properly baked. I don't think it is fair for Gibraltar, for the tenants, for the landlords, for the developers, for all concerned, that we should go ahead without a properly finished product and therefore, Mr Speaker, my party will be voting against.

MR SPEAKER:

Are there are other contributors? I will then call on the mover to reply.

HON M K FEATHERSTONE:

Sir, I said earlier on, I think almost at the beginning of my speech in support of the Bill, that the Bill tries to bring together the diametrically opposed views of the Action For Housing on one side and the landlords on the other. It seems the diametric opposition also seems to be on the benches of the other side because we had a speech from the Honourable Mr Loddo which was very much to one side of the spectrum and the speech by the Honourable Mr Haynes which was very much to the opposite side of the spectrum. I see at the moment they are sitting close together and if the sparks are shooting between them perhaps this might be used by the Minister for Municipal Services to get a little free electric power. Sir, I think I should start in reverse order, the Miss World will come at the very end. I will start therefore with Major Peliza's intervention, and he mentioned the question, as did the Honourable Chief Minister, of the language used in the Bill. The Select Committee did not specifically state it should be written in simple language but simpler language because the previous Bill was in the most complicated language that you

could possibly come across, so much so that I think I am not wrong if I say that the Select Committee half the time had to ask the Attorney-General to interpret Clauses in the Bill because it was very difficult to fully appreciate what their meaning was. The Select Committee Report did say it should be in simpler language so that the general public would be able to comprehend it and I think the Bill has come out in simpler language which although it is still as it must be in reasonable legal language. And as for the question of loopholes, I think that with the best will in the world any law that is drawn up unless it is 500 pages long it is going to have some loopholes in it. I believe there was a classic case in which the then Chancellor of the Exchequer, Mr Dalton was going to pass a Bill and he was promulgating it in the House of Commons and they recessed till the next day and he came back the next day and he said "Well I presented a very good Bill to you and whilst I was home last night I found 22 ways in which you can circumvent it". So if somebody is putting forward his own Bill and can find loopholes in his own Bill, well, I am sure whatever Bill is presented by anybody somebody else will find some loopholes in them. The question of Major Peliza's White Paper, I think this, really, is almost a red herring. The Select Committee Report, as the Honourable Chief Minister has said, was tantamount to a White Paper and the Government's possible amendments were stated at the last House of Assembly when we debated this and I think it gave everybody a fairly clear view of what was going to be the possible legislation. But one thing the Honourable Major Feliza has said and this is something worthy of very serious consideration, it is a very good idea, I fully agree with him and I think Government will do its best to expedite it, there should be simple leaflets which could be printed and circulated saying: "The new law has come out, if you are a tenant of a dwelling house, this is how it affects you". That is a very good idea and I think it is worthy of the highest commendation and I give the Honourable Major my congratulations on quite a brilliant idea. Sir, the Honourable Mr Restano mentioned how would existing leases be affected. I think the basic idea is that the new law should subsume all existing leases but of course there would be the opportunity to an appeal to court if anything very seriously was affected. As far as Clause 19 is concerned, if because the landlord has to effect repairs a tenant has to move out, even if it is for a long time it does state quite clearly that he must go to suitable alternative accommodation. So that if it is suitable alternative accommodation then really he is not suffering so great a hardship. I agree with him that there may be a need for more than one Rent Assessor in the first instance but I think the situation could be that we started with one Rent Assessor, if one found that he was completely snowed under with work, then a second Rent Assessor on a temporary basis could be considered. The Honourable Mr Haynes made one comment which I feel is not what we would like to see. He mentioned that he thought the relationship between landlord and tenant should be as loosely defined as possible. I feel that that is not good legislation, it should be pretty strictly defined. He made the comment that

there was no future for the private landlord. Well, I don't think that that is really the true case but he has set himself up almost as the landlords' spokesman and we did not specifically get that impression in the Select Committee from landlords who appeared before us. One point he mentioned is that he does not agree with the idea of the regulations for the measurement of squares but this type of regulation which is the regulation to the previous Bill and should apply to the present Bill is the same type of regulation which is used in rating and I wonder whether the Honourable Mr Haynes would like to change the whole rating system as well. His point of a community lawyer, almost an ombudsman, I feel that that is something that could be considered in the light of practice if one sees that the Rent Tribunal does not work satisfactorily and there is need to have a community lawyer to do the legal side of it. But if the Rent Tribunal works satisfactorily and if people apply to it learning what their rights are from the leaflet that could be produced, as suggested by the Honourable Major Peliza, then I feel a community lawyer is only going to duplicate the work and duplicate the costs. I am not really worried with the Honourable Mr Bossano's challenge that when his party wins the elections then the Bill will be repealed, I hope and I am almost sure that the Bill will therefore last for a very long time. But the Honourable Mr Bossano, who in most matters is pledged to a semi-type of nationalisation, would I presume like to see that property should be nationalised. However, one thing I would mention to him where he mentioned the question of compensation being paid instead of alternative premises. In the Select Committee we did vary our opinions as time went on. We started off with the idea that there should be compensation where a landlord wished the premises for his own property and then later on other viewpoints came up and other matters were considered and we veered away from the idea of compensation to the idea of alternative premises. And what has now come out in the Bill is a mixture of the two, alternative premises could be offered or compensation. I think that it is only reasonable to say that the compensation offered today, even on the lowest basis, is very considerably in excess of what appertained under the previous Bill where, if I read it correctly, if you had been the tenant for 14 years you got 2 years of the rateable value and if you had been less than 14 years you got one year of the rateable value. Well the new schedule not only gives you considerably more financial compensation but also gives you a longer period of time in which you can organise yourself and try and find alternative premises if the landlord does not offer them to you himself. Mr Isola brought up a number of points. He suggested that it should be incorporated in the Bill that there should, where the landlord wishes to have the property for himself, suggest either alternative premises or the payment of compensation or an option to purchase. Well, of course, that is worthy of consideration but in any circumstance a landlord always has the opportunity to give his tenants an option to purchase, it is not really necessary to enshrine that in a Bill, he can do that at any time that he wishes so perhaps it is an idea which although worthy of some consideration, may not really solve the problem at all.

HON F J ISOLA:

If the Honourable Member would give way. Surely he has got it all wrong. What I was suggesting is an option to purchase at the option of the tenant there. In other words, if the landlord says "I want it for myself", he has to pay whatever it is by way of compensation. The tenant could then turn back and say: "No, I want to buy it". Then he pays the market value and that enables the landlord to get money to find himself some other premises at market value.

HON M K FEATHERSTONE:

I am thankful for that clarification. That puts a very different light on the idea and I think that it is worthy of consideration. The question of the Rent Tribunal has been cleared I think by my Friend the Attorney General. The Honourable Mr Isola mentioned why did we change from 1954 back to 1945. I think, as Mr Perez mentioned in his intervention, the main reason why he had originally considered 1954 was that it should be a 30-year period, and we changed back partly because we do not want to give the impression to would-be developers that a 30-year period is going to be limits on them and partly because it would create a certain difficulty insofar that there are a number of Government dwellings built during the 1945/54 period which would give a little bit of a contrast in the suggested rents. In actual fact the number of houses which are affected between the period 1945 and 1954 in the private sector is just over 190 so it does not make a very great difference to the general housing stock.

HON J BOSSANO:

He is saying that it does not matter because it is only 190 between 1945 and 1954. Well, how many are there between 1940 and 1945.

HON M K FEATHERSTONE:

I would think none, sir.

HON J BOSSANO:

Then why bring in 1945, as a red herring?

HON M K FEATHERSTONE:

Well, if you are going to make a date at which houses started to be built, then the date would be 1945 rather than 1940. It only shifts it up to a more reasonable point. The point that the Honourable Mr Isola made about the landlord would be responsible for the electrical fixtures, perhaps an amendment may come in which changes the word "fixture" to the word "installation". He should be responsible for the electrical installation. It might be construed as the Honourable Member has said that fixtures include certain other things,

though I wouldn't think an electric light bulb would be classified as a fixture. As the Honourable Mr Perez clarified, and I would reiterate, the intention is that all the clauses of the Bill should be considered as coming into force as from the date the Bill comes into force. This, of course, means that there would be the retrospection where anybody during the period of moratorium had for some oversight, perhaps, not fully understand the situation that was appertaining at the time. The Sinking Fund, of course, in the same way would start from rents recoverable paid after the date of the Bill, not from back to 1945, this would be absolutely absurd. Clause 3. What is family? Well, I think we will bring in an amendment to actually state what is family. This, of course, is one of the things that the legal gentlemen love. They want to be absolutely sure that your second cousin twice removed is part of family and your third cousin three times removed is not part of the family. However, we cannot accept the suggestion that the qualifying period of residence should be reduced to 6 months. This actually came up in the Select Committee and it was considered at the time if you had a tenant who unfortunately was rather on his last legs, you did not want somebody just moving in at the last minute and getting the benefit of being able to take over the tenancy, it should be somebody who bona fide had lived with that person for a reasonable period of time. We had thought of a longer period but eventually we settled on 18 months. I would refer back to the question of the change that the Government made from the Select Committee Report that business premises where they are required by the landlord for his own use should not be simply the offer of alternative premises but compensation would be another possibility, and I would remind the Honourable Leader of the Opposition that in his intervention at the last meeting of the House on the Select Committee Report, he made the comment that if one said that it had to be alternative premises and nothing else, with the dearth of alternative premises which does occur in Gibraltar at certain times, this is almost tantamount to saying to somebody: "Here you have a tenancy on a permanent basis courtesy of the House of Assembly". Perhaps, he might consider that the suggestion of compensation in lieu is not so difficult to accept after all. A very last point. I would agree with the Honourable Leader of the Opposition that the time given to the Opposition for considering this Bill was the minimum permitted by the Standing Orders. I don't think we are asking to rubber stamp it, they have had a very good day today in discussing it. It seems that they have done their homework, they have read the Bill pretty well, but I would suggest to the Honourable Leader of the Opposition, I think that he is a Member of the Committee on the Standing Orders, that if he feels the period allowed by the Standing Orders is not sufficient, he should suggest that this should be increased to perhaps 10 days, 15 days, or what have you.

However, the amendments have been circulated, there will be a period of time before we actually take the Committee Stage during which they will be able to study the amendments, and obviously it will give them time if they have any specific amendments of their own to put them through. With that, Sir, I would therefore commend the Bill to the House. I hope the Opposition which has varied opinions amongst themselves, do not completely follow the suggestion of the Honourable Major Peliza by voting against. I think they might be more elegant if they cannot agree with the Bill itself, although it does appear they do agree in many ways with much of the Bill, perhaps they might like to abstain.

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

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R C Valarino
The Hon H J Zammit
The Hon D Hull
The Hon B Traynor.

The following Honourable Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A J Haynes

The Bill was read a second time.

HON M K FEATHERSTONE:

Sir, I beg to move that the Committee Stage and Third Reading be taken at a later part of the proceedings, not today.

THE WIRELESS TELEGRAPHY (AMENDMENT) ORDINANCE, 1985

HON H J ZAMMITT:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Wireless Telegraphy Ordinance (Chapter 162) be read a first time.

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

SECOND READING

HON H J ZAMMITT:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Sir, the measure before the House intends to amend the Wireless Telegraphy Ordinance to the extent of strengthening the existing provisions relating to the licensing of television receivers. It is unfortunate that quite a number of persons who have obtained licences for previous years have not subsequently renewed them. It is also even more unfortunate that some persons have not taken out a licence at all. These persons are using illegally a service provided at great public expense and in a manner of speaking are defrauding their fellow citizens who have obtained their licences. The present provisions are such that in order to proceed legally against anyone for using an unlicensed set, it is necessary to prove possession of the set by the individual. This is only possible by visiting the premises in which the set is kept and actually having sight of it or, alternatively, having the individual concerned admitting the fact that an unlicensed set is in his or her premises. There are provisions for seeking the issue of search warrants to enter premises in order to ascertain whether an unlicensed set is kept therein. However, the Attorney-General advises that the use of these provisions for financial reasons ie to see whether the licence fee has been paid or not, would be unconstitutional. Certain measures are therefore necessary in order to ensure (a) that these persons who have obtained a licence do so in succeeding years, (b) that those who purchase a television set for the first time obtain the required licence, and (c) that those who already have a set and which has never been licenced take out the pertinent licence. The proposed amendments provide under Clause 2 that anyone who had obtained a licence shall continue to be liable to have a licence until such time as he satisfies the Wireless Officer that he no longer has the set to which the licence refers. These provisions will cater for those under (a). In order to ensure that those who purchase a set for the first time obtain the necessary licence, it is proposed under Clause 3 that licence dealers should submit monthly returns of

sets sold. This will be in addition to the existing requirement of keeping a wireless record book wherein should be recorded all sales made. The present provisions which require dealers to view a licence when effecting a sale, will thus be done away with. This is in response to their representations that the responsibility to ensure that a licence is obtained must rest with the Government and not with them. Such a requirement will also tend to favour the unscrupulous traders as against the honest ones. It is proposed to provide, under Clause 4, for persons who have held licences on or after the 1st October, 1980, and do not hold a licence when the Bill becomes operative and who have not notified the Wireless Officer of the disposal of their sets, to be made liable to continue to pay the licence fee unless within 3 months they satisfy the Wireless Officer that before the coming into force of the Ordinance the set had been disposed of. In order to strengthen these provisions it is proposed to carry out visits to premises where it is suspected that an unlicensed set is being kept. These premises come under two categories. Those in respect of which licence has been obtained before the 1st October, 1980, and therefore not caught by the proposals in Clause 4, and those for which licences have never been obtained and there is suspicion that an unlicensed set is being kept therein, that is to say, by the presence of an aerial cable entering the premises. Although the person carrying out these visits will not have the power of entry into the premises, it is hoped that those that will be visited and others who hear of these visits will obtain their licences should they have an unlicensed set. Mr Speaker, the proposed amendments to the Wireless Telegraphy Ordinance before the House and the follow-up which the Government proposes to take will, it is hoped, go a long way towards achieving the aim that everyone who possesses a television set obtains a licence therefore. At the end of the day, however, in the democratic society in which we are fortunate enough to live in, it is up to the individual's honesty which will determine whether or not that aim will be achieved. Mr Speaker, I would also like to mention at this very moment there is evidence to suspect that we have collected television licences for some two thousand sets so it would not be an unimaginative figure to feel that between 2,500 and 3,000 unlicensed sets are in Gibraltar. Mr Speaker, I commend the measure to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Mr Speaker, I think this is a sensible Bill and perhaps one that the Government might have presented a long time ago and perhaps recover a lot of revenue from it. We have our own television station, our own wireless station which have to be paid for. They do provide a social service which I think Gibraltar as a whole benefits from and enjoys and apart from other matters that of course we don't agree with, but we are not talking about that now, in no way what I am saying now should in any way be construed as what might be said when the Motion that my Honourable Friend has got here later on a different aspect of GBC, but I think that they do perform an important social service in Gibraltar which every family and every individual who has a television set or a radio set is enjoying and it is only fair that this should be paid for by the people who are actually enjoying the service and not highly subsidised to the extent that it is today. In fact, if all licence fees were collected perhaps the subsidy would be reduced. May I say, too, that I am glad that the Government took note of the points that were made when this was first raised of how the dealers were going to deal with the control of sales of television sets. The suggestion was that dealers should collect the licence fees and that we knew was going to be a very difficult and almost an impossible task and an unfair task for those who carry out the thing religiously. What is being asked to be done now was done before by all the responsible dealers in Gibraltar without any sanctions of the law at all. It was done very well by those, of course, who took note of the importance of carrying it out. Unfortunately, the less responsible dealers were not doing that and it is perhaps because of that situation that we find that so many sets are not paying licences now. From the point of view of the dealers in Gibraltar, the responsible dealers, I think I say that this is welcomed, this change of mind of the Government is welcomed, it is not an impossible task. What I would like to make sure is so that we do not go back to square one, that somehow this is enforced because if it is not enforced then we will come back to the old situation whereby the responsible dealers will carry on sending returns but others will not and after a little while everyone will give up, I think it is important, in my view, that now that the law has been passed and the whole thing has been regularised, that it should be enforced and my party welcomes the Bill.

HON P J ISOLA:

I do not quite see how this particular Bill is going to remedy the very unsatisfactory situation that has been revealed by the Minister of only 2,500 people holding licenses for television when there must be a good 8 or 9 thousand homes, I don't know

how many homes there are in Gibraltar, the assumption that one must make is that there is at least one television set in every home in Gibraltar so, therefore, if you do simple mathematics, there could be as many as 5,000 people not paying licenses and therefore there seems to be no merit in Clause 43 saying that nothing in this section shall be construed to impose on any person retrospectively any liability to pay a licence fee. I would have thought that if the date is the 1st October, 1980, anybody who has held something from then has to go on paying, it seems to me sense that if it is discovered that anybody has got a television set now and has not been paying from the 1st October 1980 should be made to pay from the 1st October, 1980, unless he can show he did not have a television licence around that date otherwise all that is happening is that the people who were paying on the 1st October, 1980, or at least paying until that date, will have to continue to pay and those who have never held a licence or have not done so before that date will only have to start paying as from now or when they are caught, so if one wants to really make a drive on this, I would have thought that the sensible way to do it is in fact to make it retrospective under that section so that anybody who has held a television licence or rather who has held a television set or shows from the 1st October, 1980, pays his license fee. Otherwise all that is happening, surely, is that those who held a license on the 1st October, 1980, pay and those who have not held one on the 1st October, 1980, and not even before or after but who have held a television or have a television today do not pay. That seems to me to be unfair and therefore I would have thought that it should be made retrospective for everybody from the 1st October, 1980, and that may perhaps help to reduce the subsidy that GBC get in which everybody participates equitably.

HON ATTORNEY-GENERAL:

Can I simply clarify that this is only a limited way of reducing the deficit, as it were. I think what would be the most effective way, no doubt, would be to go into homes. It is a controversial view but I do think it is unconstitutional. I think there certainly is a risk of it being unconstitutional. My personal view is that more than that it is not the right type of remedy for the nature of the problem, I think going into homes is a serious matter. If I can just deal with the point which the Honourable Leader of the Opposition made. We cannot have retrospective charging penalties for monetary charges as I am sure he is aware that under the Constitution one may not impose a charge retrospectively and of course that offends general principles of charging anyway.

HON P J ISOLA:

What I am suggesting is that the same principle that is applied in this Ordinance should be applied to people who do not have licenses but have had television sets and puts the burden on them to show they did not have it on the 1st October, 1980.

HON ATTORNEY-GENERAL:

I was coming to that but the problem there is that whereas the person happens to have had, and admittedly it is incidental, but if a person happens to have had a license since a certain date such as 1980, then we know that at some time he has held a licence and we can therefore use that to invoke from the commencement of this Bill a liability until such time as he proves that he has no longer got a set. What we cannot do, of course, after the event is establish that back in 1980 or 1981, a man happened to have had a television set. The nearest we can get to that is by being able to establish whether he had a license. But you will never be able to prove that 3 years ago somebody had a television set, you may prove it but you would be lucky.

HON P J ISOLA:

What I am suggesting is that as there are 5,000 odd people all of whom have television sets and don't have licenses, if one finds somebody who has a set today, the burden should be on him to show that he did not have it in 1980, that is what I am saying, and we should be able to claim the license fee back because if he has got the television set he has always been liable for that license fee the only thing is he has not paid, so put the burden on him to prove that he didn't have a television set in 1980 and not put the burden on us to prove that he did have it because if he has got it now then under the legislation he was liable to pay a licence fee on that from the year one, so let him prove he didn't have it in 1980, otherwise he has got to pay.

HON ATTORNEY-GENERAL:

With respect, I don't think that is a desirable or practical way of dealing with the problems. It is one thing to say that we know he had a licence, then as from the commencement of this Bill we can invoke that fact as a basis for charging him, unless he can show that he has got rid of the set, but I don't really think we can say: "Once we know you have got a set we can assume, until you prove otherwise, that you have always had a set", I don't think that that is an approach we can use, I think that is an approach which at first sight I feel comes very close to being retrospective in effect

anyway, but in any event I don't think we can do that as a matter of principle.

MR SPEAKER:

Are there any other contributors? Then I will call on the mover to reply.

HON H J ZAMMITT:

Mr Speaker, I would just like to clarify one or two points. First the Honourable and Gallant Major Peliza. The question of the burden on the dealer to collect the licence has been done away with because quite honestly very few dealers were complying with that legislation which was very cumbersome and was done away with. The other point I think I would like to clarify is the question of October 1980. Mr Speaker, when I had given the figures of how many people had paid television licences I said that so far this year 2,000 had paid. We must recall that the licence expires on the 30 September and we are coming out with press and television adverts reminding people so there is a trickle coming through but there is one very important fact that Members I think have omitted to see. The facts are, Mr Speaker, that a receiving licence covers any number of television sets within a household. What has happened in the past is that on families moving out they have taken their televisions away with them and they might honestly well be under the belief because they have been covered for so many years, that their father's licence or their father-in-law's licence is still covering them wherever they have now moved to. Am I making my point? Therefore what we are trying to do now, Mr Speaker is to say, right, there has been a number of movements certainly since 1975, there has been a lot of people moving around, we do know we have about 7,000 or 9,000 houses in Gibraltar and I think it is fair to say one can estimate that every single house invariably has a receiver. What we are saying is, if we can establish from 1980 onwards, from then on very few people are going to get away because we can then keep records exactly of who purchased a television set, we would know and we would know equally by the register to what household it is going and we could well find that a person could buy a television into a dwelling that is already licenced by another set so 1980 has been brought up purely with that in mind, Mr Speaker. The other thing of course is that although I said that a TV receiving licence covers any number of television sets within the flat or household, it also accepts the responsibility for a portable television, your own domestic licence covers that and as Members know we no longer have a wireless licence or a radio licence but a television transmission receiver covers this. I hope, Mr Speaker, I have been able to clarify that point that we do feel that there must

be an enormous number of people getting away with it. We don't think the majority are defrauding, what we do feel is people could be under the misconception that their father-in-law's licence when they used to live somewhere else still covers them and this is a point I would like to make and, equally, Mr Speaker, and finally, I would like to point out to the Honourable and Gallant Major Peliza that Government has approved a further person to be employed particularly for this and the records will be kept at the Post Office so I think we will be keeping tabs from now on. Thank you, Sir.

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

The Hon the Minister for Tourism moved that the Committee Stage and Third Reading of the Bill be taken at a later stage in the Meeting.

This was agreed to.

The House recessed at 7.30 pm.

THURSDAY THE 8TH DECEMBER 1985

The House resumed at 10.40 am.

THE IMMIGRATION CONTROL (AMENDMENT) (NO.2) ORDINANCE, 1985

HON ATTORNEY-GENERAL:

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I now have the honour to move that the Bill be now read a second time. Mr Speaker, Members of the House will recall that at the last meeting of the House, in October, that attention was drawn to the fact that following the introduction of the British Nationality Act 1981, new provisions for naturalisation were substituted for the ones which had prevailed since 1948 under the British Nationality Act of that year. The point was made and was taken by this side of the House, that because of the way in which the new provisions were expressed it was not longer possible for people who formerly could have applied for naturalisation to achieve it, simply because one of the requirements for being eligible for naturalisation now

is that you must be able to say that you have been in Gibraltar free from any restriction as to immigration control for a certain time. And whereas formerly that was not one of the criteria for being able to apply for naturalisation, the problem is that there are some people who would have been eligible to be naturalised, who because of the way the Immigration Control Ordinance is at present worded, cannot get past that absolute requirement that one must be free of restrictions on immigration. A concern was expressed at this and that the Government undertook at the last meeting of the House to look into the problem and to see what steps could be taken to deal with it, and the first purpose of this Bill is to tackle that question. Clause 2 of the Bill is directed towards that end and basically and simply what that Clause says is that the Governor in Council will be given a discretion, and it will be a discretion, it will be an absolute discretion because nobody is entitled as of right to naturalisation, it is always discretionary, but the Governor in Council will be given a discretion to entertain applications from people who are of full age and capacity, who have been in Gibraltar for a certain qualifying period of time which corresponds with the qualifying periods of time set out in Schedule 1 to the British Nationality Act 1981, and the discretion will be to say that those people for the last part of the qualifying time shall be free from immigration control so that once the whole of the period is up then the people concerned are free to go ahead and apply to be naturalised, provided of course they meet all the other requirements for naturalisation, such as character, knowledge of language and the various other requirements set out in Schedule 1 to the British Nationality Act of 1981. It is an enabling provision but I stress again that in no way does it leave a person or enable a person to reach a position where he is entitled as of right to naturalisation. That is always a matter for consideration by the Government, and it is always a matter of discretion. That is the object of this provision. Members will appreciate, Mr Speaker, that we have looked at this matter as a matter of some urgency and there are two points which I would like to raise in Committee on the matter. One is this, that the provisions as drafted in Clause 2, I believe, be satisfactory for future applicants but we are in a situation now where a certain amount of time has passed since the 1981 Act came into force, in fact it came into force at the beginning of this year so if this provision is passed by the House there will be people who may already be able to apply for naturalisation and so it is thought desirable, and I will be moving in Committee, that there should be an amending provision made to deal with transitional cases, applying the same principle but enabling us to say "You do not have to wait another 5 years or another 3 years, as the case may be, you may apply now and we will consider whether or not we will

treat you as free from immigration control". The other aspect of this, Mr Speaker, is that since the Bill was prepared and published, the section of the immigration control which is concerned with this sort of matter has drawn attention to the possibility of needing to slightly expand new Clause 2, anyway, to cover a class of people who since 1973, I think, had rights and I will be making proposals on that in Committee. Mr Speaker, the next part of the Bill which is Clause 3, I talk about part of the Bill, but it is really a short Bill. The next part of the Bill is concerned with the problem which has been discussed in this House earlier this year, and it has been regarded as a matter of some urgency by this House, of persons who come into Gibraltar, who come in very temporarily on daily visits, cross the border, come into Gibraltar and either work as employees or possibly even in some cases carry out work on their own as independent contractors, as it were, but they don't comply either with the trade licensing legislation or, and I think this is really where the nub of the problem is, or with the Control of Employment Ordinance. This Clause, Clause 3, is intended to make better provision to be able to control that situation because it is of the essence of the problem that it is a very temporary one. Temporary in the sense that the person comes and goes and of course certainly under the Control of Employment Ordinance, and I think also under the Trade Licensing legislation, it takes time to go through the process of prosecuting such a person in the courts and you cannot arrest them and detain them and these people, characteristically, come and even if they are detected they have gone and there is no real remedy. The purpose of this provision is to say that when you come into Gibraltar on an entry permit or a permit of residence, if you worked here either in contravention of the Trade Licensing Ordinance, or in contravention of the Control of Employment Ordinance, your entry permit will cease to have effect. That is what the consequence will be if you come and breach either of those laws. The law already says that the fact that you get a permit does not give you any entitlement to work here but this goes further and says that if you do come in and work, your permit will automatically cease to have effect. I think it was explained in the last House but the point of that is that it is much easier to control matters by these means than have to go through the trouble and the time of going to the courts. It will not of course mean that every case will be detected and it will not make it easier to detect because as I understand the position, a lot of these people who are breaching the law are doing so covertly in the sense that they come to somebody's private home, install something and they are gone, and that sort of thing is not easy to detect. I would not like to represent this amendment as being a cure all, as it were, for the problem but it will make it,

I think, easier to enforce in those cases where it is detected. There will still be a need for vigilance on the part of the various law enforcement agencies.. The last of the major purposes of this Bill is in Clause 5 and it is simply in consequence of Greece's accession to the European Community to include Greek nationals in the list of persons to whom Part 9 of the Immigration Control Ordinance applies, and Part 9 is that part under which Community Nationals can come into Gibraltar. And; finally, there is a very small amendment contained in Clause 4, which involves the repeal of Section 26A of the Immigration Control Ordinance. This is consequential on the British Nationality Act, 1981. The explanatory note is slightly misleading, the real point is that it is no longer necessary to have this provision in view of the provisions of the 1981 Act. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Mr Speaker, I am glad that the Attorney General has included in the amendment Section 3, which is an amendment to Section 11, but I didn't quite understand what he was saying and perhaps he can explain it clearer, to me, anyway. He was referring to the valid entry permit and how this could be withdrawn if it was detected that the individual using that permit was carrying out what might amount to illegal activities in Gibraltar. The fact that it has been included here is a good sign, it shows that the Government is interested in stopping this kind of activity, particularly as it does affect, I think, considerably, employment in Gibraltar and trade in Gibraltar, which obviously the Government must protect. What I do not understand is that obviously an individual who comes in with his passport and has no valid entry permit would be able to carry out doing his activities. What is meant by a valid entry permit? Perhaps the Attorney-General could explain that and also let us suppose that action is taken and the person concerned is disallowed to enter Gibraltar for the reasons stated, has the individual any right of appealing to say "Look, what you are saying about me is not true", what is the position then?

HON W T SCOTT:

Mr Speaker, I would like to ask the Honourable and Learned

Attorney-General in that part of the Bill in Clause 5 which deals with Greece. In the explanatory memorandum it is said that in consequence of the accession of Greece, Greek nationals are given the right to obtain residents permits, and I am wondering whether the Greek nationals acquire this right on the accession of Greece within the European Community or after the period of transition. I say that quite openly looking towards a situation when Spain joins the EEC and Spanish nationals will acquire the right to obtain residents permits on the accession of Spain to the EEC and not past the transition period.

HON P J ISOLA:

I think the point raised by my Honourable Friend Mr Scott is extremely relevant because I think that by putting Greece in Part 9 of the Immigration Control Ordinance, one is allowing Greek nationals to come to Gibraltar and be free from employment permits under the Immigration Control and as I understand it, Greece has a transition period of 7 years and therefore, as I see it it should not really go in because the situation will arise obviously when Spain comes in and it will be pointed out to us that Spain should also come into the Schedule. Again, Mr Speaker, we have hardly had any notice on this, we have not been able to actually compare this with the Immigration Control Ordinance and I think this is something that we would like clarification on. With regard to Section 2, Mr Speaker, the question of exempting people from immigration control in the circumstances specified in Section 2, as I see it, and I am not sure whether I am reading the right section, Section 5 says: "Subject to the provisions of Section 4, no non-Gibraltarian shall enter or remain in Gibraltar unless he is in possession of a valid entry permit, a valid permit of residence or a valid certificate". If you take away the restriction, if the Governor-in-Council takes away that restriction, there is no provision here under which it can be imposed, as I see it. Are we in a position that we are going to now produce a new kind of resident in Gibraltar, one who has the requirement of having a residents permit taken away because he is going to apply for naturalisation so that he can get it, but if he does not get it, he stays free from control. That is what I would like to know and, secondly, this is an important amendment, do I understand from this that the Governor-in-Council is only going to exempt people from this provision in order to enable them to apply or is the Governor-in-Council going to make a judgement as to whether that person is a fit and proper person to become a British Dependent Territories Citizen, because if that is the case then, of course, the Governor-in-Council is taking over the functions of the British Nationality Act 1981, and I would much rather

see a provision under which people who wish to apply for British Dependent Territories Citizenship should be free from Immigration Control under Section 4(1) once the Governor-in-Council is satisfied that they are entitled to apply by way of the residence they have had in Gibraltar and so forth, and then make a provision under which immigration control can be re-imposed on them if their application does not meet with success. I think this is something that certainly we would like to get clarification of because it is of some importance, I think, that the applications for British Nationality should be dealt with in accordance with the British Nationality Act, 1981, and not be a matter for decisions in Gibraltar although Gibraltar, obviously, must take some part in it, and there should be provision under which the Immigration Control is re-introduced if the application is unsuccessful. That is one. The other one, Mr Speaker, Section 3, the amendment to Section 11, I can only repeat what I said, what I said in the Control of Employment Ordinance that all this Section intends to do is, in fact, make it more difficult for those who have been here for some time to stay and does absolutely nothing, really, in respect of the great number of Spaniards who are even today coming in, working in Gibraltar, working in households, working in lots of other places, which is not covered by either the Trade Licensing Ordinance or by the Control of Employment Ordinance, and what I would like more attention to be given by the Government is that instead of making it easier for the enforcement agencies to chase or run after what is a comparative minority in Gibraltar, they should be looking as to how they can collar and stop what is quite a large number of people that are coming into Gibraltar and doing work on their own in houses and all over the place in respect of which the Government has absolutely made no provision in the law. And then, of course, as I have said already on the question of Greece we would certainly like to have a very clear exposition on this before we vote to include Greece to the Schedule.

HON CHIEF MINISTER:

Mr Speaker, some of the points that have been raised have been those that have been considered by the Government and I shall give my understanding of what we have agreed on the Bill to be confirmed from the purely legal point of view by the Attorney-General. In the first place, the question of naturalisation. By virtue of the fact that the British Nationality Act, 1981, applies to Gibraltar and particularly the condition for naturalisation as a British Dependent Territories Citizen are exactly the same as the condition for naturalisation in the United Kingdom, as Members are aware, in the United Kingdom, once you have lived there for four years on a permit, whatever your nationality you are free from Immigration Control and it is based on that, no doubt, and not

taking into account the requirements of other territories, certainly not Gibraltar, that the requirements under the schedule to the British Nationality Act under Section 18(1), the First Schedule, the provisions are that the requirements referred to in paragraph 1A, that is to say, subject to paragraph 6 the requirements for naturalisation as a British Dependent Territories Citizen under Section 18(1) are in the case of any person who applies for it, the requirements specified in the other sub-paragraph which is the same. There it says, "that he was in the relevant territory at the beginning of the period of five years ending with the date of the application and that the number of days in which he was absent from that territory, that period does not exceed 450, that he was not at any time in the period of twelve months so ending subject under the Immigration Laws to any restrictions on the period of which he might remain in that territory". That does not apply to any alien in Gibraltar. Every alien in Gibraltar who wants to be naturalised is subject to a residence permit. Except in the case of the spouse of a British Dependent Territories Subject who has by virtue of the nationality of the British spouse or the spouse of a British Subject, by virtue of the nationality of the spouse has a subsidiary permit of permanent residence and those have not got immigration control and those are the only ones till the Act was enacted that have been able to be given British naturalisation. But there are quite a number of people who have all the qualifications either under the old law or under the new law for it to be considered by the people who are considering it now but cannot do so because they cannot be said to be free from immigration in the last year before the application. What the amendment proposes, as I understand it, is that once all the procedures have gone through and an application is favourably going to be entertained in the usual way without interference by the Governor-in-Council or anything like that, then the Governor-in-Council will give an exemption in order that a person who has otherwise qualified can qualify under this provision, I hope that is clear. As I understand it, until all these normal procedures carried out as they are now to recommend a naturalisation, there will be no question of exempting anybody, no question of exempting people in advance because they are going to apply. They will apply and if they are going to be recommended then the Governor-in-Council will decide that that person shall be deemed to have been one year without immigration control. I think it is the best way of overcoming the provisions of an Act of Parliament in England which is really binding on us and I think, if I may say so, that it is rather an ingenuous way that the Attorney-General has found for that which I think satisfies that requirement and therefore I think is very necessary and I think this corresponds to representations made by Honourable Members opposite, particularly the Leader of

the Opposition, about the stumbling block to naturalisation. But one thing is certain, that now the provisions for satisfying the naturalisation except for that one which will be especially exempt, will be the provisions that are provided in the law now and not in the law before. This is all linked up to the theme of the British Nationality Act of connection with a particular territory and that is why there is a provision which there wasn't before and that he was in the place not absent for a period exceeding 450 days. So, really, the permanence is a little more defined. In that respect there is no intention of the executive or the Governor-in-Council assuming merits of cases other than the Governor in his discretion either recommends or now he has the power to give himself on the basis of instructions received. It will only be a matter of decision by Gibraltar Council of the fact that a person who has otherwise qualified will then be deemed to have been exempt from the Immigration Laws for that year in order to qualify to get his nationality so that the thing will be exactly the same. With regard to Greece, my understanding of this, it will be confirmed by the Attorney-General is that that is subject to whatever transitional period applies to the United Kingdom and to other places. We cannot give more rights to people who become a Member of the EEC that is acquired under the Treaty of Accession and if, in fact, there is a transitional period of seven years to apply to labour from Greece into other EEC territories, the same will apply to Gibraltar. Therefore the fear that that might be translated into the fact that if there was a transitional period if and when Spain were to join the Common Market they would have straight away permission to come here, I don't think exists because this is only subject to the conditions under which Greece has joined and the transitional provisions which apply to other Member States will apply to us so if there is a transition of seven years whereby Greek nationals cannot settle in any EEC country the same applies to Gibraltar, that is my understanding. With regard to the other question of permits, only one point that I would like to answer, again subject to anything the Attorney-General may say, my understanding of the situation is that with regard to permits of entry to which the Honourable and Gallant Member referred, other than those who have a permit given by the Police, the actual stamp and the number of days that is set against the stamp when you enter Gibraltar is virtually the period for the permit of residence that you have.

HON J BOSSANO:

If the Hon Member will give way. I wonder if the Honourable Member is in a position to say, in respect of things like the transitional period, would that apply to people moving after or also to people who have been settled in an EEC country

already? I think we are probably different in our immigration control law in that irrespective of how long non-EEC nationals are in Gibraltar they never acquire a right to permanent residence, they always have annually renewable residence permits, whilst I think the normal practice in UK and in the rest of Western Europe is that after a period of years, I think it is something like five years in UK, then irrespective of whether you are in the EEC or not you can apply. Would, for example, Greek nationals who have been here for a number of years, I personally know of a number of Greek workers who are here on annually renewable permits but who have been here for the last ten years; would they be subjected to something like the transitional period or would they by virtue of their previous residence in Gibraltar be able to be treated on the same footing as others straight away, does the Honourable Member have any idea?

HON CHIEF MINISTER:

My understanding of the situation is that until the transition period applies they will be subject to the same permits that they are subject to now and that after that they will be so released by virtue of the Treaty that they will not need a yearly permit, they will need whatever five yearly permit is given to anybody who has settled for more than six months and so on, so that they do not acquire any more rights by the fact that they are here than if they came afresh though they have perhaps a bigger moral right to be continued to be given the permit of residence like even some Spaniards who have permits of residence to live here now, that is done on the merits of the individual cases.

HON ATTORNEY-GENERAL:

As the Honourable Chief Minister has already confirmed, in relation to Greece the intention is and the Bill if passed by the House after Committee will give effect to the intention, the intention is that the Greek nationals should not acquire the same rights as other community nationals except after any transitional period has expired.

HON P J ISOLA:

If that is the intention, that is not what the legislation will say because it is clear to me, under the Control of Employment Ordinance, that anybody to whom Part 9 applies, ie Greek nationals, is free of Control of Employment Control under our law, whatever the transitional provisions may say, and therefore we are certainly not prepared to accept that rather substantial amendment because we are creating a precedence for when Spain comes in and we do not see why we should.

HON ATTORNEY-GENERAL:

I really think, Mr Speaker, we are at one on principle and the implementation of that principle is a matter which will be met at the appropriate stage in the House. I don't think there is any dispute on principle; nothing is going to happen in advance of the proper expiry of the transitional period.

HON P J ISOLA:

Are we going to have an amendment to this in Committee Stage, that is what I would like to know.

HON ATTORNEY-GENERAL:

We are going to make sure that the Bill which the House is asked to pass in Committee and in the Third Reading will not give any Greek National any right as a Community national until the transitional period has finished. That is the intention of the Bill, on the question, Mr Speaker, of Clause 3 of the Bill, dealing with the cancellation of permits, the intention is to invoke a more convenient administrative procedure. I didn't in any sense mean to imply that Gibraltar would waive its traditional reliance on the rule of law in this respect. It doesn't mean that the whole thing is arbitrary, all I am saying is that the procedure that is being adopted is a more convenient one administratively. Gibraltar gives rights of appeal to people who had their permits taken away from them; they are entitled to appeal and nothing in this proposal derogates from that. From a practical point of view, because it is worth stressing in the circumstances of this particular case, from a practical point of view it doesn't mean that people cannot be required to leave because the fact that you have a right of appeal does not mean you are entitled to stay in Gibraltar pending the outcome of the appeal but your legal rights are there, even so. It is not in any sense an arbitrary matter but the convenience of it is that it gives the Principal Immigration Officer certain powers. If the executive is correct in assessing the situation then the Principal Immigration Officer has certain powers which are more convenient and are quicker than having to go to court on the more specific and more limited procedure of prosecution. The point about paving the way to naturalisation of a person by enabling him to achieve the situation where he is free of immigration restriction, I think in view of what the Honourable and Learned Chief Minister has said and of course we have discussed this Bill beforehand, I would just like to state quite clearly what the affect of the Bill is in this respect because I think there is something of a chicken and egg problem here. The British Nationality Act, 1981, Schedule 1, lays down the conditions

on which you can apply to become naturalised and one of those conditions is that you must be free of immigration control. If, in fact, as a matter of law you are not free of immigration control at point A, at a given point, you cannot make the application, as I see it, and what the Bill legally says and I would like to stress that because I wouldn't like anybody to be under any misapprehension, what the Bill legally says without reference to an application for naturalisation, it says at any time a person can apply to the Governor-in-Council for release, as it were, from immigration restriction and that is all it says. So a person legally could come along before he had made his application for naturalisation and as I see it, really has to come along beforehand because otherwise his application can never take off. It says at the outset that it is a matter of absolute discretion whether or not the Governor, formally, will grant the application and in practice, and this is the distinction I would like to make, in practice as a matter of strict law, the situation on which such an application would be entertained, considered and possibly granted, is when it is known that there is going to be an application for naturalisation but the point has been made by the Honourable and Learned Leader of the Opposition and if I may say so, Sir, is entirely correct, of course, that on an application under this subsection one cannot properly pre-empt the merits of an application for naturalisation as such. Although I think formally there is a duality of roles involved because although I think formally the power to grant naturalisation is vested on the Secretary of State, there is provision for those powers to be delegated in effect but I think in practice naturalisation will be handled in Gibraltar by the same authority as deals with this particular provision, but there is a legal distinction between the two functions. I wanted to point that out because that is a matter which if Members are not happy with it will have to be looked at further in Committee, but I find it very difficult to conceive how we can put the one before the other. It seems to me that the waiver must come first. One other point I would like to answer which was made in this debate is that although the Bill itself does not provide for the cancellation of this exemption, in fact such a power can be revoked because the power to do something includes the power to undo it and so if in the event an application for naturalisation were not made or if it were made and it failed, it would always be open to the Governor-in-Council to revoke the exemption. It is a very easy matter to spell that out explicitly, I was relying in fact on the Interpretation and General Clauses Ordinance but I realise that this could be seen as an important and even a sensitive area and there is no reason at all, of course, why we cannot spell that paragraph quite explicitly. I have no difficulty in doing that at all.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE INTERPRETATION ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Mr Speaker, I am not in a position to proceed on this Bill. I do not wish to proceed on this Bill.

MR SPEAKER:

You are not proceeding on the Interpretation Ordinance at this meeting.

THE SUPPLEMENTARY APPROPRIATION (1983/84) (NO.3) ORDINANCE 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, 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, 1984, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, 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, the sum of £650,274 out of the Consolidated Fund. The purposes for which this sum is required are set out in Part I of the Schedule to the Bill and detailed in the Consolidated Fund Schedule of Supplementary Estimates No.3 of 1983/84 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 £57,500 set out in Part II of the Schedule of the Bill and detailed in the Improvement and Development Fund Schedule of Supplementary Estimates No. 3 of

1983/84 which has also been tabled. Mr Speaker, I would like to highlight three principal requests for supplementary provision on the recurrent budget. The first, £172,200, is required to meet the estimated additional costs of the 1983 pay settlement. The approved estimate of £900,000 was based on a 5% increase and as stated in the Schedule of Supplementary Estimates a number of grades have had marginally greater increases. The increase in some allowances and the efficiency bonus has also been above that figure. Additional funds are also needed to meet the cost of re-banding some industrials and the introduction of the 39-hour week with its consequential effect on overtime rates and on the pay of shift workers conditioned to a week of more than 39 hours also adds to that. Secondly, a further £170,000 is required to meet the cost of importing an additional 19,000 tons of water by tanker from the UK. This, of course, is not the first time that provision has been required during the year. Thirdly, an increase in the subvention payable to GBC, income from advertising, will be less than the amount the Corporation budgetted for, hence the provision of an additional £49,850. Furthermore, having taken note of the observation made by the Learned Leader of the Opposition in this House, it has been decided that it is not appropriate to continue the previous practice of meeting the cost of the salary review of the staff of GBC by re-allocation from Head 27 hence the need to appropriate sums for this purpose. Finally, the additional funds required for the Improvement and Development Fund will enable the Installation Section of the Telephone Department to transfer from its present inadequate workshop at Orange Bastion. It is also intended to move the Parcel Post Store from its present location in the Bonded Stores. This is one of the planned moves necessary for the release of the Bonded Stores at Waterport for development. 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 P J ISOLA:

Mr Speaker, we will reserve our comments for the Committee Stage when we examine the Heads and the Estimates. Let me say, Mr Speaker, that in relation to this Bill we are not objecting to the Committee Stage being taken today although I must point out that we regret very much that we did not get the supplementary appropriation estimates with the Agenda for this meeting. We hope that in future we will get

the Schedule of Supplementary Estimates with the Agenda as in fact has been the case always. I think this is the first time we didn't get it but having said that and taking into account that it is my Hon Friend the Financial Secretary's first appearance in this House, we will agree to taking the Committee Stage, if that is required, today.

MR SPEAKER:

Any other contributors to the Second Reading of the Appropriation Bill? Do you wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, except to thank the Hon and Learned Leader of the Opposition for the courteous way in which he excused any shortcomings on my part.

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.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1983

(Continuation of the debate on the Second Reading)

MR SPEAKER:

Members will recall that we started the Second Reading of this Bill at the last meeting and halfway through the debate the debate was adjourned to a subsequent meeting which is today and I would like to bring to the notice of the House that Mr Bossano, the Chief Minister and Mr Loddo have already spoken to the Bill and that any Member who has as yet not contributed is free to do so. If there are no contributors I will ask the Mover to reply if he so wishes.

HON ATTORNEY-GENERAL:

Mr Speaker, I don't really think I have got a good deal to reply to, from memory. I know my Hon Friend Mr Bossano was concerned about the death sentence for treason. Can I just say that we are not changing the law. I think I made it clear at the outset that all we are doing in the case of the crime of treason is what the Law Revision Commissioner has recommended

and that is to codify, to put it in statutory form as elsewhere. We haven't changed the law, it would be a substantial step to change it either way but the fact of the matter is at the moment that the death penalty is the penalty for the crime of treason. I think one Hon Member did in fact query why there should be a limit on prosecution in the case of such a grave matter as treason. I think the reason for that is that it is not a time limit on all cases but it is a time limit in those cases other than where the Queen's life was threatened. There is really nothing more I wish to say on this 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 be taken at a later stage in the meeting, if Hon Members will agree, tomorrow.

This was agreed to.

THE SEX DISCRIMINATION ORDINANCE, 1983

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that a Bill for an Ordinance to render unlawful certain kinds of sex discrimination and discrimination on the grounds of marriage and for related purposes, be read a first time.

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

SECOND READING

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, if the last Bill which we had in the House which related to jury service could be interpreted as employment I am in dead trouble as the mover of this Bill. I hope this is not the case. This Bill in fact has been lying in my Department for some time. One of the problems was that before bringing it to the House I wanted to reconstitute the Labour Advisory Board to advise me on this Bill before it came to the House. We are finally able to meet in late October of this year and we agreed that we should take a further look at the Bill in February. However, during all this time, I was being given little nudges by the EEC

through the Foreign and Commonwealth Office that we should come into line with the Directive of February, 1976, of the Council of European Communities. And the last nudge was so great that I have had to bring this Bill to this House and I must say straightaway that though it looks a simple Bill it is quite a complex Bill and in deference to Members of the Opposition I do not intend to take it through all stages at this meeting and also because I want my Labour Advisory Committee to advise me on this Bill. I think one of the important things is that when we are talking here of sex discrimination the Bill as described mentions women but of course, the Bill also equally applies to men, discrimination is in respect of men and women even though the word women is more prominent in the Bill. I have nothing to add, Mr Speaker, except that I hope the Opposition realise that I didn't intend to push this Bill through, that it is only because I have been nudged by the EEC that I have presented it to the House in this way but I have made arrangements, in fact, to meet the Labour Advisory Board in February so that I can have their views and then come back 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 W T SCOTT:

Yes, Mr Speaker, on our side of the House, at least the Democratic Party welcome a Bill of this nature, at least to remove some of the restrictions between the different sexes in Gibraltar. I am sorry to see, in fact, on a personal basis, that in the explanatory memorandum where it is mentioned that the principle of equal treatment for men and women as regards access to employment, vocation, training and promotion and working conditions, one which the Hon Member opposite has already mentioned on the jury service, which I understand was a free vote at a very late stage, I think if I had been present we would have swung it and, secondly, that no mention is made here of pensions because I think that in itself has been discriminatory between men who are worse off than the women are and I think some equivalence has to be arrived at there in time to come as indeed in fact and I think there is a motion later on in the meeting of the House by my Hon Colleague, Mr Bossano, on equivalence on retirement age but, as I said, we generally welcome the Bill but we are sad to see that perhaps it doesn't go as far as it should have done if one is to take into account the long time that the Minister has had it in front of his desk.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to say a few words about this because it is much more important I think that really the House seems to think. It is a very important principle. Women for a long time have been subjected, you might say, and still are in many countries to pressures from males which I think is almost inhuman.

HON CHIEF MINISTER:

It all depends on the nature of the pressure.

MR. SPEAKER:

Is the Hon Member speaking from personal experience?

HON MAJOR R J PELIZA:

I suppose, Mr Speaker, that everything one says is subjective. Mr Speaker, I do believe in a serious way now, that this is a very important Bill. It is moving forward towards a higher degree of civilisation which I am glad to say Gibraltar I am sure will receive very well. I do not believe that there is any need for the law in itself in Gibraltar because I do not believe there is all that sex discrimination going on but I think it is proper that we should have it in our books at least to show that we are no less advanced and progressive than other European countries. It is also very interesting that we have almost been forced to bring the Bill to the House by the European Community Organisation and Institutions. It shows the importance of belonging to this community and the effects that this is having all the way down to the ordinary citizens of the community. I think that one can look forward to this great European Institution to greater things in the future. I think it is extremely important to women themselves. The rights that this will give them now would be unquestionable in law once this goes through, I am not so sure that the Minister will not get into trouble over the jury system. I do not see why, an amendment should not be introduced to the Bill at the appropriate time to do with juries and perhaps, Mr Speaker, he could bring this issue back to the House in a round about way.

MR. SPEAKER:

Not for the next six months in any case.

HON MAJOR R J PELIZA:

I am not so sure he may not have to delay it for another 6 months if he does not get it through before the House of Assembly comes to an end. And if he, I believe, is in favour and even the Chief Minister is in favour, he may find ways of delaying the Bill coming through and therefore it will be possible to take it again when the next House of Assembly is convened. Mr Speaker, I welcome the Bill but I am sorry that the question of the jury is not included.

HON M K FEATHERSTONE:

Sir, although I fully welcome the Bill, it presents a little measure of worry to me on a philological basis. I wonder if the English language is going to have to be changed so that the word "man" must be removed. We already have the shocking word "chair person", I wonder if we are going to have to talk of the "person power board" to "person handle something", to "personage" instead of to "manage" and perhaps to "personoeuvre". I think we must perhaps have a clause in the Bill saying that the use of "man" in the English language can be taken to include woman otherwise the whole of the language is going to be very difficult. Thank you, Sir.

HON CHIEF MINISTER:

I would like to say to that that I am particularly impressed by the definitions which says that woman includes a female of any age.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I share the views that have been expressed by the Honourable and Gallant Major Peliza. I think what I would like to emphasise to Honourable Members opposite is that it is because I consider it an important Bill that Gibraltar should have, not that it is not all that necessary, that I have been careful in giving time to Members opposite so that we get the things right and that I get the proper advice from my labour Advisory Board. I think I must emphasise that, that I have not been riding roughshod over the Bill because I think it is an important Bill which will be seen by other countries as to how we are progressing in this field. I think it is also true to say that, certainly, in the public sector there is no sex discrimination in employment, in wages, in salaries, in promotion of any kind. I would add, Sir, that on the question of the jury service which has been mentioned in connection with sex discrimination, I think that it is one of the great things about the mind that can be so logical and also so illogical because when we finished at the last House when I

voted against compulsory service for women in juries, I was literally stopped by every female that I knew, saying "You should not have done it, you should have voted in favour of the Bill", and everyone said I should vote in favour of the Bill. But when I asked "Are you going to go and serve?", they said: "Oh no, I am going to be excused". Everyone of them said that, but it is the logical and illogical minds of women and men. Sir, all I have to say is to 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 MAJOR F J DELLIPIANI:

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:

THE EDUCATION (AMENDMENT) ORDINANCE, 1983

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Education Ordinance 1974, (No.11 of 1974) be read a first time.

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

SECOND READING

HON J B PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, ever since the opening of the frontier, the Education Department has noticed that there has been an increased incidence of non-residents, and when I use the word non-residents in this particular connection I am really referring to those Gibraltarians who throughout the last 10 years have taken up residence and are in fact working in Spain, and with the opening of the frontier there have been a number of them who have now tried to seek free education for their children. The real intention behind the Bill at present before the House is precisely to stop that particular situation from arising because we have been informed that under the present law it was arguable that in those particular cases, children of these Gibraltarians or even of non-Gibraltarians but who have families here, could in fact opt for free education for their children. This was done or could have been done very easily. It could have been done by submitting a

letter to the Education Department to the effect that a particular child was being looked after by her grandmother who has always been resident in Gibraltar. As the explanatory memorandum provides, the object of the Bill is to provide that except as otherwise provided in Regulations, where no real parent of a child is ordinarily resident in Gibraltar, the child shall not be entitled to free education. The expression real parent in this context is intended simply to refer to a natural or adoptive parent who is alive and is, or would be if he exercised his rights, entitled to the legal custody of the child. It is necessary to so provide because under the principal ordinance the word "parent" is widely defined for general purposes to include any person who actually has the custody of the child. That is the point that I was making originally. A grandmother who went to the Education Department with a letter from the parents who have always been living in Spain could say "Look, this is a letter to the effect that I am looking after and I have the custody of the child". It was only a mere letter, it was not a court order, or anything like that and this Bill seeks to stop that, that is the free education side. The Bill also includes provisions to facilitate its enforcement. Where a natural or adoptive parent of a child is alive, it is presumed, unless that parent proves otherwise, that he is entitled to its legal custody. Where a natural or adoptive parent is a person who would be entitled to free education for his child if the parent did live in Gibraltar but he had in any year lived outside Gibraltar for more than 3 months, it is presumed, unless he proves otherwise, that he is not ordinarily resident in Gibraltar during that year. Mr Speaker, the fact of these presumptions are rebuttable will in fact enable natural or adoptive parents who are genuinely resident in Gibraltar to establish the children's rights to free education in those cases where the parents are absent for such reasons as business, holidays, or educational purposes, and I would add for health reasons, which are really of a temporary nature, outside Gibraltar. The Bill will come into force on the 9th January, 1984, being the date of commencement of the next school term but I see that we have put that the Committee Stage will be taken at a further meeting of the House so that is probably wrong. I think the intention of the Bill, is in fact, very clear and I sincerely hope that it meets with the support of the other side of the House. I think that it was Mr Loddo, at one particular meeting of the House who brought the matter up, I think it was in a question, and I did say that I was looking into the matter and as a result of that these are the proposals. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Yes, Mr Speaker, I think there are two principles involved in this. The first principle, obviously, is that people who do not reside in Gibraltar do not pay taxes in Gibraltar, and do not contribute to the economy of Gibraltar are not entitled to have their children educated in Gibraltar free of charge. To that extent of course, we agree fully with the Bill and that there should be these restrictions. On the other hand, I think that provision ought to be made for children of Gibraltarians registered under the Gibraltarian Status Ordinance who live or work in Spain or in the nearby area, to enable them to have their children educated in Gibraltar on a payment basis. The reason I say this is because I think that it is important for us that Gibraltarian children coming as they do under the evil influences of our neighbours, should have a bit of our own educational system inculcated to them in Gibraltar, in the environment of Gibraltar, because, obviously, Gibraltarians and the children of Gibraltarians could one day come back to Gibraltar and would one day form part of the people who might vote in any future referendum on the future of Gibraltar and therefore whilst agreeing that we should not allow Gibraltarian children whose parents reside and work out of Gibraltar the benefits of our educational system free of charge, I do think that they should have the right to be educated in Gibraltar on a payment basis. Apart from that Mr Speaker, we support the Bill.

HON MAJOR R J PELIZA:

I would just like the Minister to clear a point for me. Possibly, there is no case at the moment but I can foresee this possibly happening in the future, particularly with a fully open frontier if it ever happens. What I am referring is to a situation whereby there are Gibraltarians who because they cannot find accommodation in Gibraltar, a married couple who cannot find accommodation in Gibraltar, have to go and live in Spain. They continue to work in Gibraltar and obviously they continue to pay taxes in Gibraltar but their permanent residence is in Spain. Perhaps they themselves would not like to be in that situation but circumstances compel them to and they find that they have to educate their children in Spain or that they have to educate their children in Gibraltar but have to pay for their education notwithstanding that they are contributing in

taxes. I wonder if a way can be found, in fact, to overcome that problem.

MR SPEAKER:

Well if there are no other contributors, I will ask the Mover to reply.

HON J B PEREZ:

Thank you, Mr Speaker. Mr Speaker, there are two points that call for my replying. About the first point made by the Leader of the Opposition I can assure the Leader of the Opposition and the House that that particular provision as far as payment is concerned, already exists. That is in fact available and as far as my term of office as Minister is concerned, I think there is already one particular case in which that has already been approved although let me say, that the person concerned tried to get in on the basis of free education and we said "Look, we don't feel you are entitled, but should you wish to take up the right of paying, you will be entitled". That is already part of our legislation. The second point which calls for my reply is the one which was raised by the Honourable and Gallant Major Peliza. Again, as far as this point is concerned, that is already met because if he will note the words used in the Bill are "ordinarily resident". What would happen in that case in the event where you have the husband and wife who are both working in Gibraltar but due to lack of accommodation, or for some other which I would say bona fide genuine reasons decide that they have to live in Spain, obviously, this would be, as he said, in the case of a fully open border situation, that could already be met by the words "ordinarily resident" which in fact, although it is a legal term, it does mean that if you can show that your connection, although you may live in Spain your real connection is with Gibraltar of "ordinarily resident". It has not arisen yet but I think it is in those cases persons could make use of that particular word of "ordinarily resident". There is provision as to that as well.

HON A J HAYNES:

The interpretation would be that he would be domiciled in Gibraltar but resident in Spain and it would not be ordinarily resident.

HON J B PEREZ:

The point put forward by the Honourable and Gallant Member was in fact if it should arise with a fully open frontier. What I

am saying is that it is arguable for that particular parent to say that although they are living in Spain but nevertheless since they are working in Gibraltar, since they are contributing in Gibraltar by way of taxation, by way of social security and other means, they could argue that they are ordinarily residents. I am not saying that I am entirely agreeable to allowing that particular case but let me say that the provision is there and I suppose, really, you could take it to Court to make a judicial decision on the interpretation of that particular word.

HON A J HAYNES:

On a point of clarification. The Minister is wrong in his interpretation, Mr Speaker, in that a permanent resident is— also defined in the Bill as living in Gibraltar for nine months in the year.

HON J B PEREZ:

It is ordinarily resident and if you would have listened to what I said, I said the expression, when we were talking about expression about real parents, we were talking about natural or adoptive. The persons who are entitled to free education would be those who are ordinarily resident in Gibraltar. Therefore if anybody is living in Spain it is for them to establish that although they are living there they nevertheless are ordinarily resident in Gibraltar. If they cannot establish that then they would not be entitled to free education but they would be entitled, as I have already pointed out, to education by paying the relevant fees.

HON A J CANEPA:

On a point of order, Mr Speaker. We are at the Second Reading of the Bill, the Hon Minister has already exercised his right to reply and the Hon Member keeps on jumping up like a jack in the box.

MR SPEAKER:

No, with respect, I have taken it that the Hon Mover has given way to the Hon Mr Haynes.

Mr Speaker then put the question which was resolved in the affirmative and 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 subsequent meeting of the House.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

- (1) The Pensions (House of Assembly) (Amendment) Bill, 1983;
- (2) The Auditors Registration Bill, 1983;
- (3) The Gibraltar Shiprepair Limited Bill, 1983;
- (4) The Wireless Telegraphy (Amendment) Bill, 1983; and
- (5) The Supplementary Appropriation (1983/84) (No.3) Bill, 1983.

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

THE PENSIONS (HOUSE OF ASSEMBLY) (AMENDMENT) BILL, 1983

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move the following amendment to Clause 2: In the proposed new section 8B(1), on page 126, to omit paragraph (d), and substitute the following paragraphs:-

- "(d) his condition is such that he is no longer reasonably able to perform the functions of an Elected Member; and
- (e) his condition was caused or materially accelerated by the injury or disease".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I would like, if I may, to speak in support of this amendment. Hon Members may recall that when this Bill came up for the Second Reading before the House, the Hon and Learned Leader of the Opposition made the point, if I may say

so, a very valid point, that the way the Bill was expressed meant that a person who might be able to claim a pension because he had, in fact, been injured and become unable to continue to serve in the House could lose it on a technicality because the way it was expressed, the immediate reason the person would have left the House was because of a dissolution and that was the way we had it drafted and I think that point does have to be covered and the point of this amendment is to change it in that respect so that the test is not whether you have left the House as such, you must have left the House, obviously, to qualify but then the further and the real test is whether you are reasonably able to continue in the House so it has got nothing to do with dissolution as such. That is the point of that amendment, it is to meet the point raised by Members on the other side. Perhaps it would be convenient for me at the same time to refer to a second point which was taken in the Second Reading debate but which we are not proposing amendments on and that is the question of the definition of the meaning of the expression 'duty' in relation to an elected Member of the House and it was suggested or put to us that we should define what the duty of a Member of the House is. I am afraid I have to say that my own view is the same as in relation to the Members of the family in that this is a case where one should rely whether it would be desirable not to try and define it definitively but one should rely on the ordinary meaning of the word 'duty' and look at the situation in the context of each case that arises and we do not anticipate any real difficulties in this but in any event we are not proposing an amendment to define 'duty', we are taking the view that it should be left to its ordinary meaning.

HON P J ISOLA:

Mr Chairman, this amendment I think meets the point that I raised on the Second Reading and it is quite clear that once an elected Member is not able to perform the functions as an elected Member that is the time when obviously the pension comes into play and he should cease really to be an elected Member. I think this meets the point that I made in the Second Reading.

HON MAJOR R J PELIZA:

Just one question, at what time can this be declared, is it during the time that he is serving in the House because how can you tell whether he cannot perform the functions of an elected Member? Obviously, he must be serving at the time otherwise if he stands for election and he is not elected he cannot come back and say: "I cannot perform the functions

of an elected Member". He must cease to be able to perform the functions of an elected Member whilst he is serving in the House, is that not so?

HON ATTORNEY-GENERAL:

If I may clarify that point. I think any pensions question, as indeed I think most matters that concern pensions must be looked at this way. A person would say: "I believe I am entitled to a pension", and he then has to meet certain criteria which are checked and I think the relevant criteria, I am condensing them are; first of all; "Have you been a Member of the Third or any subsequent Gibraltar House of Assembly?" If the answer is yes you have met one of the qualifications. The second relevant point here I think is; "Have you ceased to be a Member?" If the answer is yes, you have met another qualification. The third relevant point is; "Have you suffered any injury or disease attributable to your service as a Member?" If the answer to that is yes, the third leg has been made out. I said there were three but there are in fact four legs. The last question to be asked and it is a matter of fact in each case is; "Because of that injury or that disease, are you now unable to serve as an elected Member, are you not fitted to serve as an elected Member?" And if the answer to that is yes, then the pension authority is entitled to come to the view that this person is qualified for a pension. It is a matter of objective judgement or decision by the pension authority. I do not myself think that that has to be made while the Member is still serving, in fact, my answer to the Hon and Gallant Major's question is that it would not be necessary for a Member to be serving when that decision is taken as long as those four steps are all satisfied.

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

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

THE AUDITORS REGISTRATION BILL, 1983

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move the following amendments to Clause 3(5); to omit the word "appointment" and substitute the word "re-appointment".

Mr Speaker put the question which was resolved in the affirmative and Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move the following amendment to Clause 4(3); Omit this subclause and substitute the following subclause:

"Any person who is not exempted under subsection (2), who satisfies the Board -

- (a) that he is of good character;
- (b) that he has not less than five years experience as an accountant;
- (c) that he has an adequate knowledge of accountancy, and of the law relating to companies and to taxation, and also has obtained adequate knowledge and experience of auditing; and
- (d) that accounting and auditing occupy a reasonable proportion of his working time -

shall, on application in writing to the Board in such form as the Board shall require, and on payment of the prescribed fee, be entitled to be registered in Part II of the Register".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to also speak in support of this amendment by way of clarification. When this Bill was first proposed to the Government the scheme of the system of qualification was rather more loosely worded and if I can explain what I mean by that. The relevant clause of the Bill gives the Auditors' Registration Board the power to grant registration where it is satisfied that a person meets certain

requirements. The Bill as initially presented to this House set out those requirements as they were conceived by the professional society proposing the measures and agreed to by Government at that time but the society subsequently came back to us, they had obviously thought further about the matter and wanted to be more specific in a number of respects about the qualifications that had to be demonstrated or met before a person could obtain registration. The amendment is to give effect to that further thinking of the society and in fact I think it is desirable because it is rather more specific and therefore more objective than the previous wording. The one point which we did not feel able to include, because I think it was really not so much a question of qualification was a proposal that one of the things a person had to do was to show that he was practising with unlimited liability. I do not really think that is a question of qualification, I think that is a question of professional ethics or professional practice and that is a matter that my advice to the Government is that it should be looked at if and when the legislation we are now establishing for the first time is further developed specifically in relation to professional practice and professional ethics. At this stage we are not proposing to include that as a qualification.

HON P J ISOLA:

There has been some shift, I am afraid of the intentions behind the Bill in this amendment. As I understood the Auditor's Registration Bill as it was originally brought about, had two objectives. One was to decide basically, who could audit companies under the Companies Ordinance for the purpose of income tax. As I understand the position, the Commissioner of Income Tax has a very good idea as to the accountants he can accept as being adequate and so forth and the idea of this Bill, part of it, as I understood it, was to regularise the position of people who were in accountancy and so forth. There is only one part I query of this amendment, and that is in paragraph (C). Paragraph (C) is that he has an adequate knowledge of accountancy and these are the words I object to, and on the law relating to companies and to taxation, and also has obtained adequate knowledge and experience of auditing. I think it should just read that he should have an adequate knowledge of accountancy and knowledge and experience of auditing. I do not know who is going to be on the board, I don't know whether it was said who would be on the board, one as Chairman, one should be a Member of the Gibraltar Society of Chartered and Certified Accountants and it would seem to me that it could be argued by the Chartered Accountants on the board that the person did not have a knowledge of law relating to companies and to

taxation, because (a) he had not obtained the qualification on the matter which all accountants have to do and (b) what is an adequate knowledge of law relating to companies and to taxation? I think there are many lawyers who do not have the adequate knowledge relating to that today. So an accountant who has obtained his experience for example, working in a chartered accountancy firm and then branched off on his own, could be shot down very easily by anybody on that board and I think that the intention behind this Bill was to regularise the position of people who spent most of their time in accountancy work, were generally accepted by the Commissioner of Income Tax as being OK for audit purposes, and exclude all those who are outside that. I would move myself, for the reasons I have stated only, that (c) should be made less restrictive by just asking for an adequate knowledge of accountancy and experience of auditing. This is what I think it should be.

HON CHIEF MINISTER:

Mr Chairman, isn't the Honourable Member trying to prepare the ground in order to have stronger support for his proposed amendment later on?

HON P J ISOLA:

No, on the contrary, I suppose that if it stayed as it was, it would probably help Section 13. But what is the purpose of this Bill Mr Speaker? Is this to have another examination board? What happened in the United Kingdom, as I understand it in the 1929 Act, what they did was to accept all auditors, everybody who had been practising auditing up to a particular date and, for example, here with dentists what we did was to accept as qualified dentists all those who had been practising in effect dentistry without a qualification up to a particular date. And what does this do? This is in the same line, to accept people who have businesses of accountancy going who are working as accountants, to accept them for the purposes of Gibraltar, for the purposes of the companies ordinance. I believe that the Commissioner of Income Tax has been consulted on this and I think that he himself suggested this. So let us not have a new situation introduced under which the board will say 'No, not you, because you have passed no exams in company law and you have not passed any exams on tax law'. That is all I am trying to do. What I am trying to do is that I think the introduction of knowledge of a law relating to companies and to taxation introduces a new element into the Bill, a substantial new element into the Bill, which I am sure it was not intended in the original Bill. If we look at the explanatory note to the Bill, "they are of good character and who in the

opinion of the board have obtained adequate knowledge and experience with accountants and auditors and spend a reasonable proportion of their working time on accounting and auditing". That is all the Bill is trying to do. If we are going to have a registration board who are going to tell an accountant who has been working for a long time, doing his business; "Once you have got an examination, bring me a certificate that you know something about company law and something else, then you will be qualified". That is what I think is wrong. I would move Mr Speaker, perhaps I could read it first, and that is that sub-paragraph (C) be deleted and substituted by the following: "(c) that he has adequate knowledge and experience of accountancy and auditing".

Mr Speaker proposed the question in the terms of the Hon R J Isola's amendment to the amendment.

HON ATTORNEY-GENERAL:

Mr Speaker, the effect of that amendment is that what is proposed in Committee by way of a change to sub-clause (3) as presented in the original Bill is simply to add a 5-year minimum qualification, that is what it comes down to, I think. If Honourable and Learned Members' concern is that people that have been practising at present may be excluded from future practice by the amendment of the Bill in the way originally proposed, if that is the concern I don't think, with respect, that that is correct because the principle already contained in sub-clause 3 of the Bill is that there be a board, the board will be able to say who may or may not qualify or may or may not be registered as an auditor, and that is a matter of judgement, although the original sub-clause 3 laid down some criteria and there is a right of appeal. I do not think that the amendments that the Honourable Financial and Development Secretary originally proposed gets away from that principle. All that it is doing is to in effect, particularise those criteria in two respects. One, the 5-year rule, which is not controversial, and, two, to say among other things an adequate knowledge of accounting and auditing includes a knowledge of the law relating to taxation and the law relating to companies. I do not think that that is in any way departing from the original principle of the Bill. I think that it is a matter of law, a person who does not hold any qualification can still be held by the board, because of his practical experience, to have a sufficient knowledge of taxation and of company law. If the Member is concerned on the point of how objective must the board be, that may be a different matter, in other words, it may be a question of looking at the wording who satisfies the board rather than the detail of this particular paragraph. But that has not been put by anybody and as matters stand we have not been proposing to amend it in

any way in that respect. Mr Speaker, if I can make one other point. I think there is a difference. It is true that customarily when one introduces professional or occupational registration for the first time, one says for the future people must meet these requirements, all people who have been practising immediately before the introduction of this new control will be deemed to be able to continue to practice. But I think there is a difference between auditing and accounting. Surely, accounting is the profession, the general profession, auditing has always been seen as something over and above that which calls for specialised knowledge and one of the reasons this Bill is being brought in is to ensure that there is an efficient standard of auditing and I think the same consideration as might apply to other occupations do not necessarily apply to the specialised skill of auditing.

HON P J ISOLA:

Mr Chairman, with respect to the Honourable and Learned Attorney-General, he misses the whole point of the Ordinance. All it says is people who have an adequate knowledge of accountancy and experience in auditing and what this introduces is a test. The test may not be that you need your degree, but it is a test. You have an adequate knowledge of law relating to companies and to taxation, specifically set out. This is a difference. And as I understood the position, I know a little about the background of this, not very much, but I know a little. As I understand the position, this is an exercise of weeding out people, basically, whom the Commissioner of Income Tax did not want to have as auditors and people he did want to have as auditors who were obviously making a full time practice of accountancy and spent full time on it. To bring in a specific requirement, now, at this stage, is to put all that at risk and I do not think it is fair on the people concerned. That is all I am saying. Because you are going to have a chartered accountant there who says: "He knows nothing of law of companies", even though the Commissioner of Income Tax thinks he does and he has been accepting his accounts. It brings in a qualification that was not intended. If one is looking objectively at the situation the way one should do, though not trying to add on a qualification at a late stage, but if you are going in accordance with what the principles of the Bill, the general principles as explained to us, this particular pointing out of qualifications, changes, in my view, the concept of the Bill. That is why I am suggesting that we leave it as it was intended. Can I ask one question? Has the Honourable and Learned Attorney General had representations from Chartered Accountants on this Bill? Is that the position?

HON ATTORNEY-GENERAL:

This is a proposal from the society.

HON P J ISOLA:

Of Chartered Accountants, of course.

HON ATTORNEY-GENERAL:

I really can't agree with the Honourable and Learned Leader of the Opposition. This is not a new qualification, this is a further particularising of the existing requirement which is that you have an adequate knowledge. We are saying you have an adequate knowledge if, amongst other things, you know something about company law and taxation law and that is not a new principle.

HON MAJOR R J PELIZA:

Mr Speaker, I would just like to point out one thing to the Attorney-General. If the consequences of this amendment is that the number of people in Gibraltar who have been practising as accountants for years, because of this possible interpretation that my Honourable Friend has given to it, were to put them out of a job, I think it would be a gross injustice and I doubt whether the Opposition can possibly accept the amendment the Attorney-General is suggesting.

HON CHIEF MINISTER:

Mr Chairman, it is very peculiar that one gets accused all the time about not having sufficient time to make amendments, and I have often said how dangerous it is to try and tinker about with amendments ad hoc on the spur of the moment and suggest wording here and wording there, the full contents of which could have much wider repercussions. I am not talking about the merits of the amendments at all, I would rather leave that in the hands of the Attorney-General in respect of the drafting. There is another amendment of which he has given notice which we can take on its merits, fair enough plus the ones that we may propose but I have said this more often than once, this last minute tinkering with words in draft Bills which have been published for a long time and of which we have not had notice, really puts Members, particularly the lay Members in a difficulty. It puts me in a difficulty. I can imagine the lay Members find it even more difficult to know exactly whether there is merit or there isn't merit. Perhaps we could leave this until later on and deal with it at a later stage. I would like to think about this.

HON P J ISOLA:

May I say one thing, Mr Chairman, about what the Hon and Learned Chief Minister is saying. All we are doing is reinstating the original Bill, that is all we are doing, the wording there on section 4(3) "obtains adequate knowledge and experience as an accountant and an auditor" and that is all that amendment does. And it is the new amendment that has been given with very little notice which was circulated to the Members of the House yesterday evening. My amendment comes only as a result of that amendment, if that amendment had not been made I would not be amending and all I am doing in the amendment, Mr Chairman, is reinstating what was in the original Bill in respect of which I am sure the Hon and Learned Attorney-General took a long time to consider and draft and the only reason why we are having this amendment today is because the Society of Chartered Accountants wants to screw people a bit more, that is all.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, as a relative newcomer to this subject I must say that it does seem to me desirable and necessary that someone who is, in fact, going to audit accounts and whose experience will have to be accepted by the Commissioner of Income Tax, should have a knowledge of taxation and tax law and also of company law and this is the force for the amendment. Obviously, one is seeking to improve and strengthen the provisions governing auditing and I find it difficult, as I say, as a newcomer to understand why the Hon and Learned Leader of the Opposition is objecting, apart from the form and the exchange he had with the Chief Minister, the amendment seems to me a sensible one.

HON P J ISOLA:

Mr Chairman, I can appreciate and I take it that the remarks of the Financial and Development Secretary are precisely the remarks of a newcomer and therefore has no knowledge and experience of the whole history of this, firstly. Secondly, I think that if these qualifications are being brought in you might as well scrap the Bill. The idea of the Bill was to enable the Commissioner of Income Tax to decide who should be auditors for the purposes of the Companies Ordinance and then preclude everybody else from being auditors and the people that would be accepted are people who are doing full-time accountancy work and incidentally, Mr Chairman, full-time accountancy work in competition with chartered accountants and we now get brought in an amendment which is sectarian, Mr Chairman, this amendment, it is sectarian and if the

predecessor of the Hon Financial and Development Secretary did not find it necessary with his three years of experience in Gibraltar to bring in this new element; I see no reason why it should be brought in at this stage. The more that it is discussed the more suspicious I become that the Bill was promised, brought in and now it is being chopped off. We may find there is nobody registered as auditors under this Bill and we are all wasting our time, Mr Chairman, and the monopoly is being maintained.

HON CHIEF MINISTER:

Mr Chairman, I am not very happy about this and I wonder whether we could leave this amendment to a later stage. I want to take advice on this since I have heard the Attorney-General, I have heard the Leader of the Opposition and I am not at all happy one way or the other.

MR SPEAKER:

We will then adjourn the Committee Stage of this Bill to a later stage. I imagine that perhaps it would be the wrong time to start on the Gibraltar Shiprepair Bill, so perhaps we could have the Wireless Telegraphy Bill.

THE WIRELESS TELEGRAPHY (AMENDMENT) BILL, 1983

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, in Clause 2 if one looks at new section 10(5)(a), the whole point of this is that you are being sued for a licence fee because you haven't taken out a licence and I think that should read, and I will propose a very brief amendment to it, that should read - "a person has at any time after the commencement of the Wireless Telegraphy (Amendment) Ordinance, 1983, held a licence". I have an amendment which I will move. I move that Clause 2 be amended in the new section 10(5)(a) to omit the word "holds" and substitute the words: "has at any time after the commencement of the Wireless Telegraphy (Amendment) Ordinance, 1983, held".

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

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 (1983/84) (No.3) BILL, 1983

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

Schedule

Supplementary Estimates Consolidated Fund No.3 of 1983/84

Head 2 - Customs

HON W T SCOTT:

Mr Chairman, can I ask the Government what led to the extra expenditure of £18,000 which I understand from the remarks is to provide cover for relieving officers during periods of annual leave and sick leave that could not have been pre-determined during estimates time?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, extra activity on the part of the Customs pursuing their normal duties. As I think the Hon Member may be aware the staffing of the Customs Department is barely adequate to meet extra demands placed on them. As is normal in these cases there is to be a staff inspection report and this may lead to increases in manning levels but in the meantime it has been found necessary to put officers on overtime in order to cover for officers on annual or sick leave, it is just pressure of work.

Head 2 - Customs was agreed to.

Head 4 - Electricity

HON G T RESTANO:

Mr Chairman, is the additional amount required for staff engaged by HSPE or by the Electricity Department?

HON DR R G VALARINO:

This, in fact, as the comment says is for six months of additional local staff which were engaged for the Waterport Power Station which consist of one Assistant Mechanical Engineer who is a PTO II who was recruited and the System Engineers who were advertised for and were promoted to PTO II and at present are undergoing training at Waterport Power Station, they are local people.

HON G T RESTANO:

And they are actually in the Waterport Power Station?

HON DR R G VALARINO:

Yes, they are there.

HON G T RESTANO:

Are they the only Government employees in the Waterport Power Station or are there any others?

HON DR R G VALARINO:

Well, if we could call it full-time, they are the only ones at the present time, Sir, but other people go there from time to time. Obviously, the City Electrical Engineer and the Deputy City Electrical Engineer go there as do various Heads of Department and people like the Ancillary Section to make sure that the place is cleaned up etc, but these have been recruited specifically for these jobs.

Head 4 - Electricity was agreed to.

Head 10 - Judicial (1) Supreme Court

HON P J ISOLA:

Mr Chairman, can I ask, is there still industrial action in the Supreme Court or the Registry of Companies or has that disappeared?

HON ATTORNEY-GENERAL:

That has disappeared, Mr Chairman.

HON P J ISOLA:

I am very glad to hear that. Can I ask, the additional staff employed for the additional judge, is that the staff actually asked for?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it is not. The staff of the Supreme Court, following the appointment of an additional judge, is also the subject or should be the subject of a staff inspection and they have not as yet been granted their full additional demands.

HON P J ISOLA:

What was the staff that was being demanded for the additional judge? Is that known?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I haven't got the precise figures, I think the difference is that we are allowing them a number of staff on a temporary basis, the figure, if the Hon and Learned Leader of the Opposition won't hold me too precisely to this I think it is the difference between nine and six, I think, in that order, but I would have to check on that figure.

HON P J ISOLA:

Because it does seem to me, Mr Chairman, having some knowledge of the Courts, the sort of staff that is being apportioned under the vote is totally inadequate, that is why I mentioned it: Just having one Executive Officer and one Usher to service an additional judge would seem to me to be inadequate. Could I ask under Item 6 - Jurors, this I presume is in relation to Operation Jam, presumably, the cost. I have noticed recently under this item because it seems that prosecutions, especially in drug cases, are becoming particularly burdensome on the economy. Mr Chairman, I notice that recently there were some cases before the Court in which, from what I read, some defendants were prepared to plead guilty but the Crown decided to take it on trial in the Supreme Court. Can I ask, is any consideration given when making a decision such as that when defendants are prepared to plead guilty and take their punishment and the Crown decides to prosecute into a higher Court, is any consideration taken of the fact of the very substantial expense that is involved in any prosecution of drugs involving as it does, visits from Scotland Yard, visits from Gibraltar to England, expert witnesses and all these substantial expenses when we don't have, for example, a prison that is adequate for long term prisoners and so forth. It was very odd for me to read what I read that the Crown which doesn't always succeed, obviously, in a prosecution should not have accepted a plea of guilty but involved us in quite heavy expense which any prosecution case or any trial in the Supreme Court involves, including, of course, payments to jurors and so forth and I could not quite understand the principles on which it was decided that there should be a Supreme Court trial. The question I ask here, of course, is, is any consideration taken in the Attorney-General's Chambers of the cost of prosecutions in the Supreme Court in drug cases involving the enormous expense it does to the taxpayer?

HON ATTORNEY-GENERAL:

Mr Chairman, I cannot comment on the first part of that question at all because the matter is sub judice.

MR SPEAKER:

In fairness, I cannot accept that it is sub judice. You have been asked to give an answer on general principles as to the policy of the Attorney-General's Chambers.

HON ATTORNEY-GENERAL:

I am not prepared to discuss my prosecuting policy at all, Mr Chairman.

MR SPEAKER:

Well, that is another matter, but it is certainly not sub judice.

HON P J ISOLA:

Do I take it then that this House is asked to vote money but won't be told why they are being asked to vote it and the principles on which they are being asked to vote it. We can't accept that, Mr Chairman, and will vote against.

HON ATTORNEY-GENERAL:

I can clarify it to this extent. The law of Gibraltar says that drug matters are serious matters. If that is not to be the law in the future, well, that will be another matter. We prosecute what is said by the law to be weighty matters, weighty criminal matters.

HON P J ISOLA:

Mr Chairman, I asked for the principles because I do not know whether perhaps what I read in the, I don't know what paper it was, was wrong. Perhaps the amount involved was much bigger than was shown in the newspapers. But what we are concerned about is that when there are quantities that can hardly be regarded as commercial, the taxpayer should be involved in the expense of a trial in the Supreme Court with hundreds of witnesses or apparently lots of people coming over at very considerable expense. Of course, drugs smuggling is a very serious offence but on the other hand, one must keep a sense of proportion, surely. What we are wondering here, on this side, what are the principles on which it is determined

that cases should be taken to the Supreme Court rather than dealt with summarily, especially when the defendants themselves were not even residents of Gibraltar and are prepared to plead guilty.

HON ATTORNEY-GENERAL:

Mr Chairman, unless we are at cross purposes, this matter is sub judice at the moment, this very matter is sub judice at the moment.

MR SPEAKER:

I think the Honourable and Learned Leader of the Opposition is just referring to the present case as an example of the policy which is being applied generally by the Attorney-General's Chambers and nothing else. What the Honourable and Learned the Leader of the Opposition is saying, on general principles, is this the right procedure to follow, not question the fact whether it is the right procedure to follow in this particular case.

HON ATTORNEY-GENERAL:

I am grateful, Mr Chairman. My difficulty is that he has associated it with the considerations which are governing this particular case and it is very difficult for me to comment at all whilst this case is still going on.

HON CHIEF MINISTER:

Mr Chairman, there is one area on costs in respect of this which also appears in subsequent items on which I have taken an interest in order to see whether we can save money and that is the expense of sending officers to the United Kingdom with samples of drugs for specialised analysis. I have urged on the Deputy Governor and the Commissioner of Police to try and see whether we can set up, we have problems in respect of the staff but the idea would be that it would be worthwhile incurring some capital expenditure in equipment in our laboratories which would more than pay for the continuous expenditure of sending drugs which have got to be supervised from the moment they leave here to the moment they come back. I must say in fairness, though, that the Police take advantage of officers who go to the United Kingdom on leave and, therefore, they do not have that extra expense. But it is a continuous flow of expenditure on this matter. There are some that could be done here at some capital expense with equipment that would save all these passages and this bringing of witnesses.

HON P J ISOLA:

I agree entirely that that should be followed up because it seems to me to be quite absurd the enormous cost that criminal cases where drugs have been concerned are costing the taxpayers in Gibraltar. I notice here the remark, "cost and expenses of 8 pending trials". This is why I think there should be some sense of proportion as to when something is taken to a higher court and when something is not because at the end of the day it is the taxpayer who is going to be asked to pay.

HON ATTORNEY-GENERAL:

Without being facetious the sense of proportion is needed among the traffickers, the people that deal in drugs. Can I come back to the point which the Honourable and Learned Member was concerned with. It is difficult to discuss it at this stage, I am happy to do so informally for the moment but later on it will be easier to discuss it.

Head 10 - Judicial was agreed to.

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Head 18 - Prison

HON W T SCOTT:

Mr Speaker, every year a head is created in the Consolidated Fund, this year it is Head 27, which is the 1983 Pay Settlement and, in fact, at a later stage in the Committee proceedings we have a sum of £172,200 awarded because of that pay settlement and I am at a little bit of a loss to understand if an extra £8,100 is required for the prison precisely to meet the cost of the Pay Settlement, why this should appear in Head 18 and not Head 27.

HON A J CANEPA:

Mr Speaker, Head 27 is for the 1983 Pay Settlement. This is in respect of the 1982 Pay Settlement and when that happens, when it is more than a year in arrears, then a specific supplementary provision has to be made by the House.

HON W T SCOTT:

Then the follow up question is, obviously, why did it take so long for the prison staff to be awarded the result of the

1982 Pay Settlement?

HON A J CANEPA:

It probably isn't that it took so long, it could well be that there has been a further settlement in the United Kingdom. There may have been a revision made of allowances there and they have been delayed and therefore we, under the parity principle, are required to apply those and we also have to do so retrospectively and it comes through later than the previous financial year.

Head 18 - Prison was agreed to.

Head 19 - Public Works

HON P J ISOLA:

In that item it refers to the cost of preparation and printing. Could I ask where has this brochure been prepared?

HON M K FEATHERSTONE:

The Gibraltar Chronicle Sir.

HON P J ISOLA:

Have any outside agents been engaged in the preparation of the brochure in pretty pictures and so forth?

HON M K FEATHERSTONE:

Yes, Sir, we have used the firm that has done the colour separations for us.

HON P J ISOLA:

Could this not have been done within the Department? How much did that cost?

HON M K FEATHERSTONE:

No, Sir, the equipment available in Gibraltar does not give colour separations of the quality that is required but once you have the colour separations done to the standards required, the printing in Gibraltar is able to cope with it.

HON P J ISOLA:

Could I ask how much of this £11,665 is in respect of the pay

car park and how much in respect of the Queensway Development Project?

HON M K FEATHERSTONE:

Yes, Sir, the colour brochure is, I think, £9,500, the balance is in respect of the Queensway Project.

HON P J ISOLA:

So the Government is spending £9,500 in what is essentially a public relations thing, just a picture so that the public can see how pretty the Queensway project is going to be.

HON M K FEATHERSTONE:

You could call it public relations but I think it goes much further than that. This is the brochure which it is intended to give to would be developers so that they can get an idea of the site, what Government would like to see there etc. The main aim is to would-be developers rather than to the general public. Of course, the brochure will actually be sold so some of the money to a great extent will be recouped.

HON P J ISOLA:

How many brochures are going to be printed?

HON M K FEATHERSTONE:

Between 300 and 400.

HON W T SCOTT:

Mr Speaker, I would like to know if the department itself undertook the artwork.

MR SPEAKER:

Undertook the what?

HON W T SCOTT:

The artwork or if it didn't, if it went out to tender?

HON M K FEATHERSTONE:

The majority of the art work has been done by the department. The department is basically concerned with the detailed part but of course as I said the colour separations were sent to England to be done.

Head 19 - Public Works was agreed to.

Head 20 - Public Works Annually Recurrent.

HON W T SCOTT:

Mr Chairman, I have one on subhead 56, Importation of Water. Is this figure the second or third consignment of fresh water that we have received by tanker?

HON M K FEATHERSTONE:

The third, Sir.

HON W T SCOTT:

Is the Minister able to say what effect the recent heavy rainfall has had on the reserves of water?

HON M K FEATHERSTONE:

The recent rainfall was very welcome and helped us considerably but it produced altogether roughly sufficient water almost equivalent to another tanker. The basic difficulty has been that the importation of water that we had been relying on from a much closer source fell away since they were very short of water and so far, in spite of the rainfall, it has not been restored. The present position at the moment is that we have about the same amount of water in our reservoirs as we had at this time last year.

HON W T SCOTT:

Does the Government intend contracting another ship-load during the course of the winter?

HON M K FEATHERSTONE:

That is very difficult to say, Sir. We are hoping that the source close at hand will once again start to supply us in the quantities which it used to supply. If that happens there should be no need to bring any more water from the UK.

HON W T SCOTT:

If that is so, Mr Chairman, the importation of water would subsequently go down and on that basis can the consumer of Gibraltar look forward to a deduction in their water charges which have been raised quite recently in the House and are effective until the end of April of next year.

HON M K FEATHERSTONE:

The idea of the surcharge was to cover the two importations previous to this present importation. Whether this present importation would be a further surcharge would still have to be considered but I would mention that we have had a whole survey on the question of water and the whole question of water tariffs will be put to review and may give a considerable change all the way through based on a more economic way of looking at the situation. I wouldn't like to say at the moment there will be a reduction, an increase, anything at all.

HON W T SCOTT:

Not till after the next general elections, no doubt.

Head 20 - Public Works Annually Recurrent was agreed to.

Head 22 - Secretariat

HON A J HAYNES:

Mr Speaker, what security do these officers concern themselves with?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The security of cash in transit.

HON A J HAYNES:

Isn't that a sort of thing that should be kept secret as a matter of public interest?

HON P J ISOLA:

In four months 3 security officers, £4,620, that is about £400 a month each security officer, roughly. Is it during working hours that they are employed and do you have any particular qualifications?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As far as I know they work during normal working hours, Mr Chairman, and their qualifications will be those appropriate to the grade of security officer.

HON P J ISOLA:

Is there such a grade in the Government Service?

HON M K FEATHERSTONE:

Yes.

HON W T SCOTT:

Mr Chairman, might I ask, if this is a new thing that has just happened? Is this a temporary one or is it a permanent one?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, obviously, the security arrangements will be kept under close review, Mr Chairman.

HON W T SCOTT:

And, obviously, what gave rise to this new arrangement, what was the reason?

HON CHIEF MINISTER:

The £44,000 robbery.

HON MAJOR R J PELIZA:

Rents of flats of officers. Would the Financial and Development Secretary explain this £45,000. It says: "Reinstatement of funds previously reallocated and required to meet other commitments". Could he say what these other commitments are and perhaps since we have something to do with the cost of renewal of a lease in which it was clearly seen by the Government that it was better to give up the lease and perhaps find Government accommodation for these officers, since the total amount is £168,000 which really could easily mean that we could contract at least 4 flats, which in terms of offices could be quite a lot of flats, I just wonder if the Financial Secretary could give an explanation.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the reallocation, is simply a technical matter. Reallocation Warrants Nos.1 and 2, have already been laid at an earlier session of the House and this does not mean that £168,000 has been spent de novo. It is £45,000 which was originally reallocated for other purposes and is now being put properly under its right sub-head.

HON P J ISOLA:

Surely, the £45,000 was reallocated and therefore spent and now the Government is seeking another £45,000. The £45,000 that

the Government is now seeking, what is it for? It is not just for reinstatement to have it in the bank, it must be, surely, because it is needed. What is it needed for? Is it, for example, in respect of the new rent that has to be paid for Leon House?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have explained the reallocation and the re-instatement. The additional sum now required is to meet certain fees and expenses of the Chairman of the Steering Committee with which the House, I think, is probably familiar.

HON P J ISOLA:

Mr Chairman, I didn't quite catch that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It comes under item of Rents of Flats and Offices because that is a re-allocation from that particular sub-head.

HON MAJOR R J PELIZA:

It is a real pity, Mr Chairman, that a matter that this House has been so concerned about, the expense of the Chairman of the Steering Committee, that a clearer note should not have been made in the estimates. This is most unfair to the Opposition and also could I know if this amount has been included in the answers that have been given to my Hon Friend?

HON P J ISOLA:

Mr Chairman, when you allocate funds all we get is a statement of allocation and the money is paid out on the warrant of the Financial and Development Secretary. As I understand it, as I read this, money was voted under Rents of Flats and Offices and money was allocated from that to something else, not Rents of Flats and Offices. Having spent that money which didn't require approval of the House but we get notice of it, the Government now comes to us and says: "We have gone and spent money by re-allocation which we now need again and therefore we ask you for another £45,000". Am I right that that is what has happened? We are voting another £45,000 which the Government now tells us is going to be used in respect of the Chairman of the Steering Committee or has been used, has been paid over and has been included in the figures that my Hon Friend Mr Restano has been given in answers to questions, that is the position?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is correct.

HON J BOSSANO:

It doesn't explain why it is under Rents of Flats and Offices.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, if I may answer the Hon Mr Bossano, it is that the re-allocation is why it appears under Rents of Flats and Offices.

HON J BOSSANO:

The Leader of the Opposition, I think, had an understanding of the situation with which I coincide entirely. The money may have been used to pay the Chairman of the Steering Committee instead of having been used to pay for rents but the £45,000 that we are voting now is for rents not for the Chairman of the Steering Committee?

HON CHIEF MINISTER:

That is right, for rents.

HON J BOSSANO:

Then my question is, what rents?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Rents which were the subject of estimates laid before the House earlier in the year.

HON P J ISOLA:

So the position is that we voted money for rents of flats and offices, at a particular stage the Government thought it better not to come to the House for money for the Steering Committee and used that money to pay the Steering Committee's Chairman and now they need that money to pay for rents again so that is why we are voting, another £45,000, is that the correct situation?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is a re-instatement, Sir.

HON MAJOR R J PELIZA:

What I don't understand is, in what form was this money paid to the Chairman of the Steering Committee, in the form of his salary, in the form of his rent in the hotel, in what way, why would you take it out from a vote which has to do with rents of flats and offices, I just cannot see the connection? Could the Financial Secretary explain it because to me it doesn't make sense to take away money from rents of flats and offices to pay a salary, if that is what it was, it just doesn't make sense.

HON CHIEF MINISTER:

I think the general provision for re-allocation is that when you need money if you are not using it for one thing and you need it for the other and you haven't got it you make the re-allocation and then you come back and ask it for any item.

HON P J ISOLA:

But, surely, that is not the position, is it? When you allocate monies from a vote you allocate them somewhere else because in the opinion of those who have estimated the vote or the Treasury, or the Financial and Development Secretary that money is not likely to be used under that vote so it is allocated somewhere else. But when you are estimating rents of flats and offices you know the rent you are going to pay for the year so why take it out from there? There can only, in my view, Mr Chairman, be one reason, that the Government didn't want to come to the House for provision for the Steering Committee's Chairman.

HON CHIEF MINISTER:

Most certainly, as far as I am concerned and my colleagues are aware, there has never been any suggestion that we should hide it in any way, I think, perhaps, it may be fair to say that this re-allocation has been done by the Hon Financial Secretary's predecessor and he has had to answer for it now and perhaps if Hon Members want a little more detail about the rents I am sure he will get it and deliver it to the House.

HON MAJOR R J PELIZA:

I would be most interested in getting more information about this.

HON G T RESTANO:

What I would like to know, Mr Chairman, when the original re-

allocation was made to pay the Chairman of the Steering Committee, I don't think I have seen that re-allocation, where does it, in fact, appear?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

When it was laid before the House. As I said in my earlier comments that re-allocation Warrants Nos. 1 and 2 are the ones in question which have already been laid.

Head 22 - Secretariat was agreed to.

Head 26 - Treasury

HON P J ISOLA:

Mr Chairman, this is another £9,000. Is that for Mr Casey again? I notice the expression 'ancillary work' is mentioned, does that include U-turns?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, the sum includes the final accounts for Mr Casey and one or two other minor consultancy engagements.

HON P J ISOLA:

Can I ask what is the full amount that has been paid to Mr Casey and is that the end of Mr Casey?

HON CHIEF MINISTER:

So far, yes.

HON P J ISOLA:

I would like to know the full amount that he has now received for (a) his written report (b) being of great assistance to the Chief Minister in London and (c) for being of great assistance to the British Government and the Chief Minister in Gibraltar in the Access Television? What is the full amount that he has received?

HON CHIEF MINISTER:

There was an original figure of £20,000. I think we came for another £8,000 and this is the final account up to today. If we have to consult him again we will have to pay him.

HON P J ISOLA:

He has received £20,000, £8,000 and now another £5,000, is that the position, that is £33,000?

HON CHIEF MINISTER:

Now it is £9,000.

HON P J ISOLA:

The full figure is £42,100. I understood the Financial and Development Secretary to say that there were odds and ends apart from Mr Casey. What we are interested to know is the full amount received by Mr Casey, we don't worry about the odds and ends of anybody else.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The odds and ends are between £2,000 and £3,000. The amount for Mr Casey is just over £5,000.

HON P J ISOLA:

No, the full amount.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The full amount inclusive of previous consultancies?

HON P J ISOLA:

That is right.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will have to provide that information to the Hon Member.

HON P J ISOLA:

I have made it £20,000, £8,000 and £5,000 which is £33,000 which leaves another £9,000 unaccounted for on this vote of £42,000 on the Dockyard Consultancy because this (New) Dockyard Consultancy was a Head opened exclusively for Mr Casey and therefore on the face of it it looks as if he has received £42,100.

HON CHIEF MINISTER:

The point is that some of the ODA consultants whose further work was required, in one case the consultancy was on a

continuing basis and continues, in one or two other cases the consultancy has come to an end and we wanted the tail end of their advice and that, of course, we had to do with our own money. That includes the last days of short advice given by Messrs Cooper and Lybrands.

HON P J ISOLA:

Will the Chief Minister not agree that having regard to the very handsome payments that Mr Casey has received, would he not agree that it is odd that he declined an invitation from the Gibraltar Broadcasting Corporation to appear on a programme with Members of the DPBG to question him on his report?

HON CHIEF MINISTER:

I think that is a matter for him and not for us.

HON P J ISOLA:

But is it a matter for him and not for the Government having regard to the fact that he is being paid for what he was doing, he wasn't doing it for the love of the Government or the love of Gibraltar, he has received nearly £40,000.

HON CHIEF MINISTER:

The Government in no way interfered whether he appeared on television or not. If he had chosen or television had chosen to give that programme and that had entailed a further payment of fees the Government would gladly have paid that.

HON P J ISOLA:

Well, I am sorry to hear that, Mr Chairman, because what we were told by GBC when the suggestion was put up that they were anxious to put the programme on, that they could have done it the night after Mr Casey appeared in this sort of panel game, they could have done it the next morning, GBC could have set it all up, but that both Cooper and Lybrands, they are not paid by the Government so I suppose we cannot say anything about that, but that Mr Casey, who is the person about whom we have spoken most critically and was the person with whom we would have wished to have had an interview, declined the combat.

HON CHIEF MINISTER:

That may well be the case but the Government has had nothing to do with that decision.

HON J BOSSANO:

Mr Chairman, can I ask, the twenty-three minutes that Mr Casey did appear on television, how much did that cost?

HON CHIEF MINISTER:

I don't think you can classify television appearances of consultants by the minute that they appear. The appearance on television, like anybody else's, like an artist or a violinist, I suppose, it is not the time that he performs but the fact that he is available for performing. For that he had to come to Gibraltar and had to spend the time required to appear on television, that is part of the consultancy, a day, two days, three days, whatever it is, like any other consultant or any other professional person.

HON J BOSSANO:

Irrespective of whether it was twenty-three minutes or not, Mr Chairman, Mr Casey was interviewed on Access-Television, can we know what the cost was? Is that what the £9,000 is for or if it is only part of the £9,000 how much did bringing him out to be interviewed for Access Television cost?

HON CHIEF MINISTER:

He did not only come out for Access Television, he came out for continuing consultations and so on and one of the main reasons why he came, of course, was for television. Certainly I don't know how the time can be divided without notice, I could find out whether there is a division but my understanding is, so many days at so much, so much, and that is the way in which the account was rendered to my recollection. But certainly there is no itemised fee for appearing on television.

HON P J ISOLA:

But Mr Casey came to Gibraltar at Government expense, hand-somely paid, to put forward his views to the people of Gibraltar and to be questioned on them and GBC considered it of sufficient importance to agree to a programme exclusively devoted to Opposition Members with Mr Casey on television because obviously this was the only way in which a proper discussion could have been carried on and not the way it was done with fifty people there and so forth and Mr Casey who was being paid from public funds declined to face the people who voted him those public funds.

MR SPEAKER:

That has been accepted, Mr Isola, and you have been told that it is not for the Government to answer for that.

HON MAJOR R J PELIZA:

Mr Chairman, I would like to say why we are going to vote against this, it is only fair that I should say so. Mr Chairman, this of course is the second time that we are voting money for this man. For what we voted before I have not been able to see because one of the conditions that was imposed on me was that I should keep secret everything I saw or read and because of that I wrote to the Chief Minister a letter to the effect that I would not read it. Unfortunately, to this day, the Chief Minister has not replied to my letter and I would very much like him to do so because at least for the record posterity can see what the position was when this happened.

HON CHIEF MINISTER:

I will certainly reply.

HON MAJOR R J PELIZA:

I am so glad that even now he is prepared to do so. The other thing is, Mr Chairman, in this instance not only do we not have a report which we can keep secret but we don't know anything at all about it and therefore because of that, Mr Speaker, I am voting against this.

HON W T SCOTT:

Mr Chairman, I also took that attitude without necessarily writing to the Chief Minister and I have mentioned it in this House before, that if I could not be entrusted on a confidential basis to keep a document to myself, that I had to go down to the Secretariat to read it, I have mentioned what my Hon Colleague on my right has mentioned and I have also, and I say it for the second time in this House, I refused to read that document and I will only read it at such time as it is made available to me at my own time in my own place.

HON CHIEF MINISTER:

Other people appear to have read it and almost revealed it.

HON P J ISOLA:

As this report is being paid entirely from public funds and

as the Government has already signed along the dotted line for commercialisation and committed themselves to the British Government, what possible harm can come, Mr Chairman, from the public having sight of the document that they have been asked to pay for quite exorbitantly?

Mr Speaker then put the question and on a vote being taken on Head 26 - Treasury, Subhead 18 (New) Dockyard Consultancy the following Hon 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon 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 Hon Member was absent from the Chamber:

The Hon A T Loddo

Subhead 18 (New) Dockyard Consultancy was accordingly passed.

HON P J ISOLA:

Mr Chairman, the next item is the Contribution to the Gibraltar Broadcasting Corporation. I notice that we are being asked to vote £49,850 to meet anticipated decrease in advertising sales. Well, Mr Chairman, I don't know whether you are a regular viewer of GBC like I presume most of us are and one cannot find the woods for the trees as far as advertising is concerned, you have those three little piglets who are always telling you what they can do and the chap of Securicor, too, and Dona Lola. Could we please have an explanation, Mr Chairman, how the Government find it necessary to make up the decrease in advertising sales and could we be told in what areas the decrease has occurred so that we may look for it when we are watching GBC?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am happy to say that I cannot answer the latter part of the Hon and Learned Leader of the Opposition's question because, of course, the day-to-day management of advertising is, of course, for the Gibraltar Broadcasting Corporation. I feel that perhaps the legend here has suffered from a certain amount of compression, Mr Chairman, as indeed Erskine May himself does from time to time and that it is really to meet, it is for an additional subvention because the revenue of the GBC has fallen. The decrease in advertising sales was in fact rather more than that but there have been reductions in expenditure on the part of the corporation, so the £49,000 is itself a net figure and they have made savings of £10,000 in addition to quite substantial savings which they have already made in the financial year. The other items are, I think more or less self explanatory and, indeed, the final item, that is to say, the cost of the 1983 Pay Settlement and its inclusion here is of course as a direct result of a suggestion made by the Honourable and Learned Leader of the Opposition on an earlier occasion that they should not be reallocated from the Head 27.

HON P J ISOLA:

We are talking about the advertising sales, am I right in thinking that the expenditure budget at GBC was cut down by £100,000 and now we are putting back £71,559?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Chairman, I think I have made it clear in my earlier remarks that we are not putting back into the expenditure budget, we are increasing the subvention because of a fall in advertising revenue. Two quite different things, to an accountant at any rate.

HON P J ISOLA:

Who has got knowledge of company law and income tax laws.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Who ensures that those two are to audit accounts have that necessary knowledge.

HON P J ISOLA:

Mr Chairman, could I ask on the question of pay settlement, again as a matter of principle, is the principle involved here

the principle of parity which the Government accepts as an employer and is it automatic in the case of GBC that when revision of salaries are made the Government subvention is raised in order for the settlement to be made. Is that the principle on which the Government works?

HON CHIEF MINISTER:

Well, it is the same as in the parity decisions every year that you take it year by year and you decide and in this case, so far anyhow, parity with whatever station the original salaries were equated which this year, according to my information, is exactly the same percentage as in the general body and £50. Naturally, they make a case and so far for as long as we can afford it if it comes out of the pocket of Gibraltar we have to pay because they are equalled on the parity basis and we make up for the difference. That is why because this year the money is coming out direct from the subvention and not from the general allocation provided for the general body, as suggested by the Leader of the Opposition the item is set out there. The practice is that following on any settlement of their equals, they put in their budget the amount that that would involve in the local staff which of course means increased expenditure and therefore the subvention, which is the balance between the money that they receive and the money that they require is expected to be made up by public funds.

HON P J ISOLA:

So that the pay settlement of GBC, am I right in saying, is in fact paid for by the Government. In other words, the Government underwrites parity for GBC. In other words, it is added to the subvention the cost of the wage revision and Government doesn't look to GBC to make savings in order to be able to pay parity, is that the position?

HON CHIEF MINISTER:

Well, we have asked them to make savings to the extent of £100,000 and they have cut off a number of features which have already been pointed out here because they haven't got the money to run it. The point is that for as long as the Government has got to make up the difference between the cost however economic or stringent the cost of the running the corporation and the difference between the income from advertising and other ancillaries together with the licence fees of television licences, whatever the difference is is what they come to the Government for and we try to see that that difference is the minimum. But if there is an increase in the salary and there is no corresponding increase on the other side, it happens the same as with the advertising.

HON P J ISOLA:

But should not the position be that when the wage negotiations take place between GBC and its staff, there should be a representative from the Government there because they are going to pay. It is not like when somebody negotiates and he is going to pay. When the Government negotiates its own pay review, the Government negotiates because they are going to pay. When GBC does, apparently, my Honourable Friend Mr Bossano and the Manager or the Chairman of GBC sit across the table and argue all day long but the paymaster is in fact the Government so why is not the Government brought in.

HON CHIEF MINISTER:

Because we do not judge the parameters of the changes, in fact there are very few negotiations nowadays for settlement except to establish what the formula is in the United Kingdom and that is why it takes such a short time as soon as that is ascertained. Sometimes it takes time like in the case, for example of the Prison Wardens, they have to get what the parity was and a settlement is delayed because of that. All that the Treasury ensures and that I am quite satisfied is done is that when they put in the claim for parity GBC satisfies the Treasury that they have been satisfied that the parity is actually in conjunction with the area from which they have drawn their comparison for the purposes of their salaries and wages.

HON P J ISOLA:

So Government is committed to maintaining parity for GBC staff?

HON CHIEF MINISTER:

No, the Government is not committed. The Government is committed to subsidise to the extent that it has to except with such capital as has been made to for as long as we want GBC, to give a subsidy of the difference. What we want to encourage GBC is to get more money out of advertising and other ancillaries if it can. What the Government cannot do is allow GBC to be static in their wage levels when other people are receiving wage reviews every year.

HON P J ISOLA:

We would not object to that, Mr Chairman. The only thing is that we would like to see the negotiations on a more realistic basis with the Government taking a part who are after all paying. The other thing I would like to ask is the decrease in advertising sales, that is an amount of £49,850. Has there

been an increase in the expenditure in making advertising sales because my information is that a considerable amount of money is spent by GBC in travelling around Spain looking for adverts, making programmes and so forth.

HON CHIEF MINISTER:

They are not allowed to make programmes for advertising in Spain. What they do is that they do go out and promote sales of airtime in order to be able to get income and for that purpose they are busily engaged in getting as many clients as possible. Some of them are really not geared to Gibraltar viewers but to viewers in the vicinity and hence the item of £3,000 to try and penetrate a little longer the signal to be much clearer further afield to be able to cover a wider field of people who may be interested in watching Gibraltar television and therefore advertisers would be attracted to put it on the screen.

HON P J ISOLA:

And have a lot more of advertising Spanish products and so forth. Mr Chairman, we are opposed to the advertising policy of GBC so we will be voting against it.

HON J BOSSANO:

Will the Honourable Member agree with me that if, in fact, the House advocates a change in policy in advertising so that we move away from depending on Spanish adverts, which I support, it requires the House to increase the subvention because the shortfall in advertising will be bigger than £49,000?

HON CHIEF MINISTER:

Considerably, that is the reason why I said that I didn't particularly like it but it was money that came into broadcasting which was mainly geared to viewers who are not really mainly from Gibraltar.

HON MAJOR R J PELIZA:

Mr Speaker that is not the right way of doing it. Surely, there are other ways of doing it. There must be ways and means of streamlining the efficiency of that unit, and if necessary cutting down on staff. After all, the intention of having GBC in colour was to prevent Spain from brainwashing Gibraltar. Now, it is exactly the opposite, it encourages Gibraltarians to go over to Spain and spend their money there.

HON W T SCOTT:

Mr Speaker, reverting to the advertising, my Honourable Friend I think has brought up a very valid point. I first mentioned this about a year and a half ago and the Chief Minister gave me the same reply, and that is that any revenue is better than none, I think that was the reply that the Honourable and Learned Chief Minister gave me.

HON CHIEF MINISTER:

Well, any revenue coming from reasonable sources.

HON W T SCOTT:

Yes, of course. But I would venture to suggest in fact, Mr Speaker, that we have a perfect example with the three little piglets that has been mentioned earlier on. That is a Spanish company advertising on local Gibraltar television, selling a product exclusively in Spain because that Spanish company cannot trade in Gibraltar. That means, effectively, that the Spanish company is using publicly subsidised advertising time that the taxpayers pay for in Gibraltar to sell a product, not to a possible 30,000 people in Gibraltar, but perhaps 3 million catchment area up the coast. If you are advertising to a catchment area of 3 million or 4 million people, then the rates should effectively go up that much higher.

HON CHIEF MINISTER:

That I agree, I am sure they get as much as they can.

MR SPEAKER:

I think we have exhausted the subject, I am going to put it to the vote.

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

The Hon I Abecasis
The Hon J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon B Traynor

The following Honourable Members voted against:-

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 Member was absent from the Chambers.

The Hon A T Loddo

HON G T RESTANO:

I would like to know on the Coopers and Lybrands study. Has that study been completed?

HON M K FEATHERSTONE:

Yes it has been completed and it is actually being studied by, I think, all Government Ministers.

HON G T RESTANO:

Can the Minister give us an indication of what the main recommendations are?

HON M K FEATHERSTONE:

I wouldn't like to say. I can only say that they went in depth into the production, both of water and electricity, worked out what are marginal costs etc, and what might be a reasonable tariff structure based on it on an economic basis. Further than that I don't think I can go any deeper.

HON CHIEF MINISTER:

It was circulated last week.

HON G T RESTANO:

Mr Chairman, is the end product that we are going to have an increase in tariffs?

HON M K FEATHERSTONE:

I couldn't really say. There may be increases in some areas, decreases in others, the whole situation has been studied, it is a very comprehensive report. I don't think that Ministers have really had time to read it, it is over 100 pages long.

HON P J ISOLA:

Can I ask, what was the idea of this report?

HON CHIEF MINISTER:

It was mentioned at budget time by the then Financial and Development Secretary saying that an in-depth study of the structure of tariffs would be considered in connection also with water and it was announced at the time of the budget though at the time we did not know how much would be involved. A token provision was made or just a mention by the Financial and Development Secretary in his budget statement. I think Members should remember this quite clearly.

HON P J ISOLA:

Yes, but the reason why I ask this is because, surely, any study the result can only be (a) that you are not getting enough money from water and electricity charges or (b) that you are getting too much. If the answer is, hopefully, (b), that you are getting too much, the Government obviously cannot do anything about it because they need that money to finance it. And if you are told that you are getting too little then there will be a revolution in Gibraltar if electricity and water charges go up, Mr Chairman, again.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if I may help the Learned Leader, I have skimmed through the report and some of the contents there I am familiar with. It is not just a question of too little or too much, there is a time factor, questions as whether the present population should pay the cost of investment or whether this will be deferred to future generations. There are concepts which are rather difficult and as my Honourable Friend has just said will, I think, take some time to consider. It can't be described as simply too much or too little, it is quite a complicated subject.

HON P J ISOLA:

Yes, but £25,200 has been spent in all this, Mr Chairman. There is only one basic problem, I am sorry to say, and that is that we are paying too much for electricity and water, or are we? We have always advocated that if you get a new power station it should be spread over a whole generation or rather the life of it, so that everybody has paid his share, all that, I think, is agreed and has been agreed. What we find a bit odd is that all this money should be spent on a study when the basic issue really in Gibraltar is do we pay too much for electricity and

water and I think there would be an overwhelming majority in favour of that proposition. But if the answer is going to be that we pay too little, then it will not be implemented.

HON CHIEF MINISTER:

I think that as the Financial Secretary said, it is much deeper than that and there is also the question of the charges for water and the possibility of the structure system that will be required once the two distillers are there and the exhaust heat of the generators help to distill water. It is a very complicated matter and it is not as simple as saying you get the same money in a different way or you can do it for less money, it is a very thorough study.

HON G T RESTANO:

Will Government be making the study public?

HON CHIEF MINISTER:

I have not looked at this as a whole but I don't see why not but at this stage I would not like to say.

HON J BOSSANO:

Wouldn't the Chief Minister agree that the question of the tariff structure and, indeed, the way that the cost of generating electricity or producing water, how that cost is met by the community is a matter for political decision? Where does the expertise of Coopers and Lybrands come in?

HON CHIEF MINISTER:

I am sure that the Honourable Member will appreciate that the political decision can only be taken against the background of the best information possible on cost of generation, the division of the tariffs where you should perhaps pay a little more for the first few and then the more you produce according to the capacity you have the less it costs and so on. It is a very complicated matter and you cannot take a political decision on that until you get all the facts and all the different choices that may be open as a result of the study.

HON J BOSSANO:

Surely, the only conclusion that that report can come to and I am sure that if it ever sees the light of day it will be corroborated by whatever it is in the report, is that by putting different charges given the size of the community and the pattern of demand which is well known to people in the

generating station, and if you put different charges you can only at the end of the day either be getting the money from one sector of the community or getting the money from another sector of the community but the total amount of money that you are going to get at the end is the same. If we spent £9 million on electricity and sending around charges from one sector to another does not alter the total. The Honourable Member is not telling us that by spending £25,000 we are going to save any money in the cost of electricity, are we?

HON CHIEF MINISTER:

I don't know because if the question of the capital charges are recommended in a different way, in a much more economic way because it gives a longer term, it is bound to have less capital charges phased over a longer period than more capital charges phased over a shorter period. With regard to the actual money to be received, it may need time and every ten or fifteen or twenty years it is necessary to see whether the tariffs as between one and another are fair and reasonable and whether it suits the requirements of the community at that time. Whether, for example, if there was going to be a big industrial requirement at off peak times what the charges should be on that basis in order to make them attractive and so on, all these things are factors. I am not thinking of this report, I am thinking of my experience in the City Council in the earlier years when we went into the three-phase extension in 1957. At one time there was only one rate, then we started first, secondary and tertiary, then we went to first and secondary rate only. There are many different ways in which the consumer can be attracted, perhaps, to buy electricity at an off peak time when it is cheaper to sell in industry or in other places, we could diversify, this is what the report is about.

HON J BOSSANO:

Mr Speaker, off peak electricity was suggested by me to the Government 9 years ago when the Honourable and Gallant Col Hoare was the Minister for Public Works and it was turned out flat. I was told that the pattern of consumption of electricity in Gibraltar where in fact there are no industrial undertakings, unless the Honourable Member has engaged Coopers and Lybrands to see what the effect of the Commercial Dockyard on generation would be. I don't know if that is the purpose.

HON CHIEF MINISTER:

They may have taken that into account.

HON J BOSSANO:

Ah, that has been taken into account. Well, then I have no doubt which way I am going to vote on this Mr Speaker. Taking up another point that the Honourable and Learned Chief Minister has said. Surely, will he confirm, first of all, that under the existing regulations governing the funded accounts, the Government has got the freedom to pass the cost of capital equipment at whatever rate they think fit to the fund. And, secondly, will he also not accept that if the cost of, for example, building a generating station for £8 million is already funded in the I and D Fund, and already reflected in the charge to the community through the debt servicing charges coming out of the Consolidated Fund, at the rate of which it is passed on to the Electricity Account, is only a way of retaining the Consolidated Fund and it does not alter the real cost at all, the real cost has got to be met within the time that we have to repay back Lloyds Bank and Midland Bank, surely, that is the real cost to the community. The rest is just an accounting exercise.

On a division being taken on Head 26 - Treasury, Subhead 83 (New) Electricity and Water Tariff Study, the following Hon 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 Hon D Hull
The Hon B Traynor

The following Hon 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 Member was absent from the Chamber:

The Hon A T Loddo

Subhead 18 (New) Electricity and Water Tariff Study was accordingly passed.

Head 26 - Treasury, was accordingly passed.

Head 27 - 1983 Pay Settlement

HON P J ISOLA:

Could I ask, Mr Chairman, how it is that it has taken 4½ years to decide the salary review of senior grades in the Government? Does that auger well for good and efficient government over the years? It has taken apparently 4½ years to decide what senior grades in the Government are to get. It started off just after the last elections and it has been completed just before the next.

HON CHIEF MINISTER:

You seem to be thinking only of elections. We are dealing with something else.

HON P J ISOLA:

No, it looks as if the Government is only thinking of elections, that is why I am asking. I would like to know why it has taken 4½ years to decide the salaries of senior grades in the Civil Service.

HON A J CANEPA:

It has not taken 4½ years.

HON P J ISOLA:

Well, it says here retrospectively to 1st July, 1980.

HON A J CANEPA:

But that does not mean that it has taken 4½ years to carry out the review.

HON P J ISOLA:

Well, what does it mean then?

HON A J CANEPA:

What it means is that the review has recommended that in some cases the post should be paid retrospectively to 1980 but it does not mean that it has taken that long. You are too clever

by half sometimes, Honourable Leader of the Opposition, you think you know everything.

HON P J ISOLA:

I don't know everything, Mr Chairman, that is why I am asking.

HON A J CANEPA:

You assume you know everything.

HON P J ISOLA:

It says here: "to meet cost of salary review of senior grades including upgrading of some posts retrospectively to 1st July 1980". So I ask, Mr Chairman, how many posts are involved, when was the settlement reached and for how long have negotiations been going on with respect to these senior grades?

HON A J CANEPA:

This has been going on for about 18 months following the report of the review and agreement has been reached recently, I would say the last final agreement in the last 2 months on what the way ahead should be and the way ahead amounts to settling this review in respect of the great majority of the posts but I think that a handful of them 5 or 6 are going to be referred back to the reviewers for perhaps what could be termed final review, I would say.

HON P J ISOLA:

So it is still not settled then?

HON A J CANEPA:

It is still not settled in respect of about 5 or 6 posts. They are being paid on an interim basis and but in respect of those 5 or 6 another look is being taken at them.

HON CHIEF MINISTER:

I think I ought to add in fairness, for the record, that the great difficulty has been that whereas in many grades, particularly the professional grades, it is easy to find what the parity state is, there are a number of grades in the senior grades which have no equivalent in the United Kingdom. First of all there was a review to try and bring them in, then there were representations as to the scales in which they were to be put, this is the point. That is why it has taken so long.

Some of the posts have no equivalent in England. A policeman is alright, a Customs Officer is alright, a carpenter is alright because a carpenter is a carpenter but there are a number of grades by virtue of the nature of our administration that cannot be classified as being its equivalent of something else and it has taken a long time and a review by two experts which was done about 18 months ago and that has been the subject of a lot of consultation.

HON P J ISOLA:

Could I ask, Mr Chairman, if the negotiations have been going on for 18 months, how is it that the award has been made retrospective to 1st July 1980?

HON A J CANEPA:

I don't think that the award is retrospective to 1980. It is only retrospective to 1980 in respect, I think, of some posts. Generally, I think it has been implemented from 1981. The reason why it goes back to that is because it was round about then that the staff association concerned, I think it is now the IPCS, made a claim for a general review of their posts because they considered that very few of the senior grades were following the parity principle.

HON P J ISOLA:

So therefore a claim was made in fact, in July 1980, and.....

HON A J CANEPA:

No, I said round about July, 1981, a claim was made and July 1981 has been agreed as the date of the implementation of the bulk of the report.

Supplementary Estimates Improvement and Development Fund No.3 of 1983/84 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 GIBRALTAR SHIPREPAIR LIMITED BILL, 1983

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Clause 2 be amended as follows: To omit the definition "Company" and substitute the following definition: "company" means the Gibraltar Shiprepair Limited, a company to be formed and registered under the Companies Ordinance by the Government and having for the time being a share capital of £1,000 divided into 1,000 ordinary shares of £1.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to explain that this is an enabling amendment so that the company not yet having been incorporated, it may be incorporated after the Bill has been passed. But, nevertheless, the Bill is merely to identify which company we are talking about and there is also a further amendment to which I will speak about later on directed to the same end, namely, to secure this name for the company.

HON P J ISOLA:

Mr Chairman, I think it is probably under this section that it is appropriate for me to ask if the Memorandum of Association that was submitted to this House is going to be amended prior to incorporation to limit the activities of Gibraltar Shiprepair Limited to the business of ship repair, which the Financial and Development Secretary in answer to a question to me said was so in the sense that he said what the Government could had been very carefully set out in the Memorandum of Association of the company. I don't know whether he has had an opportunity to look at the Memorandum of Association of the company. Since I suggested to him that I might have to read the whole lot to him, I will not take him through the whole lot but I think that if he looks at the Memorandum of Association, if he has it in front of him, I think he will agree with me that they are extremely wide, the objects that the company can engage in and the types of business the company can engage and which represents; in our view, in the absence of any assurances or any knowledge of the terms of the lease to Gibraltar Shiprepair Limited or any knowledge of the terms of the Management Agreement with Appledore, makes the company potentially a menace to the private sector of Gibraltar, building firms, construction firms, shipping agents, ship chandlers, yacht repairers, the list is very long indeed. Does

the Government propose to proceed with the company as brought before this House?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think during the debate on the Second Reading of the Bill when the then Financial and Development Secretary spoke on this subject, he informed the House that the Memorandum of Association was put in these wide terms because it was appropriate for a company which was established in this way as a private company to have terms such as that in a Memorandum of Association. This does not mean that it was the Government's intention to develop the Gibraltar Shiprepair Company as to quote the Honourable and Learned Leader of the Opposition's phase, I believe, a Falklands Islands Company, and the Government would certainly keep the activities of the company under close review. We have, in fact, considered seriously, whether it might be desirable to go further at this stage and shall we say introduce into the Bill a provision for the Government to give directions, that is to say, take a power of direction in the Bill formally. We decided it would not be appropriate to do this at this stage, it is conceivable that at some future stage the Government might take a different view but I think the fact that this matter has been considered very carefully and very closely is in itself an assurance to the Honourable Leader of the Opposition that the Government has taken note of the points he expressed. The Government does not share his concern in quite the same terms but will obviously take note of developments as the commercial shiprepair goes into operation and it may be necessary at some future stage to consider legislation or some other action.

HON P J ISOLA:

This is not really good enough, Mr Chairman, although I must say the Financial and Development Secretary has gone a little further than his predecessor and Government Ministers. We feel that the whole structure, we don't know who the Board of Directors are going to be, we know that no Government Minister is going to be a director of the company and the directors, again, will be people who would want to make this company a success obviously. The managers certainly will want to make it a success and if they can make it a success by infringing on the private sector we have no doubt that they will and it is insurance against that that we are asking for and that insurance must be in clear terms, otherwise we just cannot accept it.

HON MAJOR R J PELIZA:

What we heard the Honourable Financial Secretary say the other

day at question time made it very clear that this company would be as autonomous as possible, that the Government would not interfere, that was clearly stated time and again. Involved in the company are operators who have got a stake in getting profit out of it in that they would derive a commission. It is therefore very likely that if they can see that they can make extra money by perhaps infiltrating into other kind of businesses in Gibraltar which will give them benefits, I think they will be very prone to do a thing like that. I think it is unfair to the traders of Gibraltar that what amounts to a heavily subsidised company, not just by the Gibraltar Government but by the UK Government as well, should possibly enter into competition, I think that this is an assurance that should be put in the law for the safeguard of all the many people who have been established in Gibraltar in businesses over the ages. I say ages because some go back over a 100 years.

HON CHIEF MINISTER:

Mr Chairman, first of all, the Memorandum and Articles of the Company are not really the basis on which the company works but on the Articles of Association. We who are concerned with company formation and so on are well aware that we do make very wide provisions just in case it could be necessary but first of all the articles will determine that, the articles can be changed much more easily than the Memorandum, then there will be the management agreement entered into and agreed by the Government before it is given over to Shiprepair Ltd and that will have its element of strength. Last but not least I have seen correspondence because a number of traders have sent me copies of correspondence that they have had with the proposed operators where they have suggested that they might be impinging and the way in which I have seen the correspondence go was very much the other way. I think, whatever may be said before the company is set up the Government will have to make its own ideas and directions given to the Board of Directors of how the company should be run and that is also reflected in the management agreement and I do not think that this is going to be a company that is going to run the whole of Gibraltar, it is not their intention, nor do I think that the terms of the Articles and the proposed Management Agreement would allow them to do that.

Mr Speaker put the question and on a vote being taken the following Hon 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 K G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon 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 Hon Member was absent from the Chamber:

The Hon A T Lóddo

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

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

New Clause 6

Mr Chairman, I have given notice of an amendment which involves a new Clause 6: to insert after Clause 5, as new Clause 6, the following Clause and to remember the existing Clauses 6 and 7 as Clauses 7 and 8 respectively.

"Gibraltar Ship- 6.(1) There is hereby established a fund,
repair Limited to be known as the Gibraltar Shiprepair
Fund. Limited Fund.

(2) The Fund shall be a special fund within the meaning of the Public Finance (Control and Audit) Ordinance, 1977, and accordingly all the provisions of that Ordinance that apply to funds declared to be special funds under that paragraph shall apply to the fund.

(3) Notwithstanding section 24 of the Public Finance (Control and Audit) Ordinance, 1977, there shall be paid into the Gibraltar Shiprepair Limited Fund all monies received by the Government of Gibraltar from time to time by way of grants and loans from Her Majesty's Government in the United Kingdom in aid of the investment of the Government of Gibraltar in the company.

(4) There shall be charged upon the Fund such monies, not exceeding in the aggregate £28,000,000, as the Financial and Development Secretary may authorise for the subscription or purchase by the Government of Gibraltar of shares in the company".

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

HON P J ISOLA:

Am I right in assuming that the effect of this clause, Mr Chairman, is to take control of the expenditure of the Fund entirely from the House. I am trying to get the Ordinance to have a look at it, could the Financial and Development Secretary perhaps tell us what would be the procedure for expenditure from this fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, this is largely a technical provision and it would not have been possible for the then Financial and Development Secretary to move this as part of the Bill because the arrangements which the Overseas Development Administration, Her Majesty's Government, are proposing to make for the payment of the £28 million development aid to Gibraltar for the purposes of the commercialisation of the Dockyard were not then fully known and it is only subsequently that we have been able to put this particular clause together. The effect is, in fact, and I said it is a technical provision, is to enable the £28 million development aid to pass through the books of the Gibraltar Government and to dispense on purchase of assets to enable the dockyard to operate and indeed to draw down working capital as may be required from time to time to finance the day to day operations of the dockyard, paying wages and so on. The means by which this is done is the establishment of a special fund, as provided for in the Constitution, and also in the Public Finance (Control and Audit) Ordinance itself, so this is quite a normal arrangement and it will be separate from the Consolidated Fund. The Honourable and Learned Leader of the Opposition registered a concern just now that this would take the operation of Gibraltar Shiprepair Limited outside the control of the House. No, it will not. This is, of course, to be a private company but it is to be financed with public money and the House will of course have many opportunities to debate in general terms any appropriate matters about Gibraltar Shiprepair Limited. For example, and one would think is to be the most important occasion, perhaps, the report and accounts of the company, which will show, inter alia, how the £28 million pounds, the source of the fund, has been deployed

in the business. The report and accounts will be laid before the House and the House will have an opportunity to discuss this and comment on the affairs of the company and the accounts, of course, will be, as already provided for in the Bill, subject to audit by the Principal Auditor. Furthermore, in the event of there being further finance required, additional to the £28 million and at this stage of course I am putting this as a hypothetical question because there is no question of more than £28 million being required as of now, we are only talking about £28 million, but in that event, in that contingency, then clearly the Government would bring the matter before the House either through a borrowing Bill or through some other medium, there will then be a further opportunity to discuss the affairs of the company. I would like to assure the Honourable and Learned Leader of the Opposition that this is not in any way a device for taking Gibraltar Shiprepair Company away from the attention of the House but of course it does establish a special fund outside the Consolidated Fund and the detailed day to day expenditure will not therefore be subject to the estimates and appropriation procedure which is appropriate for the sort of items we were discussing earlier under the Supplementary Appropriation Bill, that is quite common, but not for a commercial and trading organisation and a fortiori trading organisation which has been deliberately set up as a private company.

HON P J ISOLA:

Mr Chairman, I am very grateful to the Financial and Development Secretary for that explanation, I appreciate that we will have an opportunity to discuss how the monies have been spent or how the thing has been operating like we do with GBC, not to a great success, I might add, but what this does by having it as a Special Fund is that the £28 million that the United Kingdom Government is giving Gibraltar for the commercialisation project will go into a special fund under the Public Finance (Control and Audit) Ordinance under which the Governor has control, from what I can read quickly here, so that if, for example, Gibraltar Shiprepair Limited requires £5 million to buy a couple of cranes and odds and ends like that, they will not come to the House for the money to be approved. The Financial and Development Secretary or the Governor or since we are becoming very independent, the Chief Minister, or whoever it is who has the authority would just say: "Write the cheque out to Gibraltar Shiprepair Limited". So that the money that the United Kingdom Government is giving to Gibraltar she is not giving it to Gibraltar, really, she is giving it to a special fund closely controlled by the Governor and whether the money is well spent or not well spent in commercialisation will not be a matter for the approval of

this House. We are not asking that approval should be obtained from this House to spend £4m on a crane but what we do think is that this House should approve the pushing of money in from the Special Fund into Gibraltar Shiprepair Limited which would be controlled by a Board of Directors who are not answerable to this House at all, so that United Kingdom funds are being said to be given to Gibraltar but are not being given to Gibraltar because the elected representatives of Gibraltar are not authorising the actual expenditure and therefore we cannot go along with this one either, Mr Chairman.

FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I can only say that the conclusion which the Honourable and Learned Leader of the Opposition has drawn from what is really a technical provision to enable the funds from Her Majesty's Government to come to the Government of Gibraltar and not I might say in passing the Governor but the Government of Gibraltar which is in control of the funds, the difference is totally at odds with the reality.

HON P J ISOLA:

Mr Chairman, when we have £47 million budget, under the Constitution that money is spent with the approval of the House, in actual fact with the approval of Government because they have a majority and they pass it every time, but the £47 million even British Government development aid to Gibraltar on things like Housing and so forth, approval comes to the House for the expenditure. The Government has the majority and they will always have it passed but it enables the public forum of elected representation to give their views on it and to authorise it. Here we have £28 million coming to Gibraltar and being spent without any authority from this House at all, that is the difference and it is a very big one, Mr Speaker.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the authority is the authority given by this House on the passing of this legislation.

HON P J ISOLA:

I know that Mr Chairman, we might as well pass a Bill saying that from now on do not come to the House for Budgets or anything else but just use the money if the Government majority approves. What we are questioning is the way it is being done, we are questioning it because it deprives this House, where elected representatives of the people are, it deprives them of having any say at all as to how that money is appropriated into the commercialisation project and that is wrong in our view.

I know the Government has a majority, the Government has a final say, but it is wrong that the House should not have an opportunity to express an opinion on the break-up of the £28m and how it occurs.

HON CHIEF MINISTER:

I hope there is no confusion of the fact that this is the same £28m that according to the Honourable Mr Bossano Appledore was to get into their pockets, it is the same £28 million. It is not £28 million to the Government and £28 million to Appledore, it is just the same £28 million. Therefore anybody who knows how ODA funds are disposed of by the ODA should know that this is not just easily disposed of. Even though the money will come into the fund they will also have a considerable amount of say in the way in which the items are spent. But what we cannot really expect is that every time that funding is required within the £28 million for the development of what has already been a more than studied scheme that we should come and have a debate to whether the crane should cost £45,000 or £55,000. Of course not. And certainly when you have made no contribution towards doing that but you pose every possible difficulty on the way and therefore I think that the way that we propose to do it is the most practical and the correct way and it is subject to the scrutiny of the House when the accounts are laid on the table at the end of the year.

HON P J ISOLA:

Mr Chairman, we cannot follow the logic of the Honourable and Learned Chief Minister. It is true that the ODA looks very closely how monies are being spent but have we not had £14 million aid from ODA, a much smaller sum, over a period of 3 or 4 years and the expenditure has come to this House for approval. The fact that this House approves it does not mean that ODA is going to give it, I agree but because it is a much larger sum, I am sure that the Government is not going to come to the House for £100,000, but because it is Gibraltar Ship Repair Limited it will come for substantial amounts and the requirement as it is seen for the next 12 months. That, surely, should be approved by this House. Why should it be taken away from this House? Even if it is £55,000, why should it not be discussed if it warrants discussion? That is the whole process of the House of Assembly, that is why we are here, Mr Speaker. In other words, we don't have to be here, the Government has a majority, they know it, they can get anything through that they like, but we are here because the Constitution says we should be here and we should perform this function. Here is £28 million of British Government Aid to Gibraltar and we don't even get a whiff of it in this House.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I can assure the Honourable and Learned the Leader of the Opposition that the sort of close control which I sense from his remarks he wishes to see and the Honourable and Gallant Major nodded in agreement when he mentioned small items being brought to this House and being the subject of day to day comment by the House, well, this is totally inimical to the concept of a commercial operation and I feel sure the Honourable and Learned Leader of the Opposition and all his colleagues want to see the Gibraltar Shiprepair running as a commercial operation, whatever reservations they may have but I can assure him that to subject the company to the close scrutiny of a day-to-day expenditure is quite hostile to the concept of a commercial undertaking, it would be asking, in effect, for a closer control over the activities than to my knowledge has ever been exercised over any statutory undertaking, any commercial undertaking set up in the United Kingdom of this nature. It would be asking for close day-to-day control of estimates and that is quite wrong in an operation of this kind.

HON P J ISOLA:

Mr Chairman, we are not asking for day-to-day control. We do not have day-to-day control of the expenditure of the Government. We come along here and they tell us, like today, £172,000 for salaries and pay settlement. We say, yes or we say no, GBC, so much, we ask questions. We are not asking for a day-to-day control. We don't see anything more about it until the general estimates once a year. It would probably come to us, what, once a year or twice a year or three times a year, but the right to be able to question how that £28 million goes from time to time is an important right, it is a democratic right, it is enshrined in the Constitution, Mr Speaker, it is enshrined in how the House of Assembly works, the whole principle of public finance and we think to take that away from the House is undemocratic.

HON J BOSSANO:

I would like clarification on a number of points. First of all, I would like to know whether the decision to do it this way is in fact because the Government of Gibraltar wants to do it this way or because the British Government who is providing the £28 million wants it done this way. That is the thing I would like to know.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The decision to do it this way, Mr Chairman, is because the

Government of Gibraltar want to do it this way.

HON J BOSSANO:

Secondly, could I then ask the Government of Gibraltar why it is they want to depart from the way of doing it that has been put forward and recommended by the Consultants and in the Project Study.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Which Study does the Honourable Member refer to?

HON J BOSSANO:

Mr Speaker, I realise that the Honourable Member has not had as much time as I have had to look at all the studies but perhaps he has had enough time to look at the part that says that since the Government of Gibraltar is going to be the owner of the land and of the permanent structures and lease them at a nominal rent to the Shiprepair Company, the civil engineering work that involves that part of it should come as a direct charge to the Improvement and Development Fund and part of the £28m was going to be provided for improvements to the permanent infrastructure and that was going to be dealt with in one way and the other part of the £28m was going to be to provide finance to the Shiprepair Company in order to buy equipment and carry out refurbishment. That separation of the money into two clearly distinct sums is being done away with here as a result of a policy decision. I would like to have an explanation because it is a different approach.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I would say in answer to the Honourable Member's question, Mr Chairman, that first of all the Consulting Engineers were not experts on Government legislation, the drafting of legislation, but secondly, I don't think that what we are proposing is in any important sense at odds with the points which the Honourable Member made, that is to say, we are not in fact proposing, certainly not with this Clause or indeed with any other Clause, we are not proposing that the land, the site and the fixed assets should be vested otherwise than in the Gibraltar Government. The Gibraltar Government will retain ownership. Obviously, the working capital which is used for, as I said, payment of wages and the running expenses, that that will remain the property of the Gibraltar Government and I think one would be stretching the connection between accountancy and legislation rather too closely.

HON J BOSSANO:

I think the Honourable Member is straying away from the point. Is it not a fact, Mr Speaker, that as it was envisaged it would work, and we have had no indication until this moment that there had been a change of policy in that respect, as it was envisaged the £28million would not all go to the Shiprepair Company because, in fact, since the landlord of the dockyard was going to be not the Shiprepair Company, the Shiprepair Company was a tenant, then the improvements to the physical assets of which the Gibraltar Government would be the owner would be to the account of the Gibraltar Government, still financed out of the £28million but through the ODA funds. In fact, if the House will recall, when we had an initial debate on this, I think it was the Honourable and Learned Mr Isola couldn't establish where part of the money was going because there was £11 million that did not appear in the accounts and it was in fact because that money was going directly to the Gibraltar Government to be spent from the Improvement and Development Fund in the physical improvement of the assets and the logic of that is that the landlord is obviously responsible for the civil engineering work to the assets and not the tenant. If a reason has been found for changing that and we are discovering the change quite fortuitously in what appears to be a very small amendment, I would like to know the reason because I can see the logic of what was being done before although I disagree with the whole enterprise but I could see the logic of that argument but I cannot see the logic of the present one.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think that the easiest way to answer this is to say that this particular clause does not affect in any way the leasing arrangement which may be appropriate or, indeed, the lease between Gibraltar Shiprepair and the Company. It does not affect that at all.

HON J BOSSANO:

Does the Honourable Member accept, does he accept that I am correct in thinking that the creation of a fund on which there shall be charged monies not exceeding £25million is, in fact, a change from the original proposals which was that something like £20million would be used to finance the Shiprepair Company whereas the other money which was going to be spent on improvements to the assets which were owned by the Government of Gibraltar would not form part of the capital of the Company, it would form part of the Improvement and Development Fund?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, as the Honourable Member has already said he has the advantage over me in a greater knowledge of the previous events. There has been no basic change, there may be some change between the recommendations of the consultants and the reports, as I remarked earlier in the discussion on this clause, but the £28million is to be applied on the critical development of civil and related engineering works and for money to start up expenses and also to provide working capital and, indeed, as an extension of working capital to meet anticipated losses. That is the purpose of the £28million and I have explained or the Clause indeed is an explanation of how this money shall be transferred from IMG into Gibraltar Shiprepair Limited.

HON J BOSSANO:

I accept that we are talking about the same money and we are talking about the money being used for the same thing, Mr Speaker. What I am saying is that we are talking about the money being used in a different way. Let me give an example, Mr Speaker. If we got a situation where a £1million is going to be used to alter No.1 Dock and No.1 Dock does not belong to the Gibraltar Shiprepair Company, No.1 Dock belongs to the Government of Gibraltar so the Government of Gibraltar gets £1million out of the £28million which goes into the Improvement and Development Fund which is awarded as a Civil Engineering Contract and which then forms the cost of doing up No.1 Dock. In the Balance Sheet of the Gibraltar Shiprepair Company that £1million does not appear. Now, the way that the Government has decided to do it, the Gibraltar Shiprepair Company will issue a £1m worth of shares to the Gibraltar Government. Then they will have to increase their share capital by £1million which will then have, presumably, to be shown up on the liability side as expenditure and on the assets side the £1 million refurbishment will have to be shown as an asset but it cannot be shown as an asset because the Dock is not an asset in the balance sheet of the company. The Dock belongs to the Government of Gibraltar, no value is put on that Dock and the company rents it. So the company is renting an asset for a peppercorn rent that the improvement to the asset must be shown in its own balance sheet. What I am saying is that to me this is an extraordinary way of going about it. If it would help to bring the company to a halt then by all means go ahead.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It may be that the technical point which the Honourable Member has raised, it may be that we shall have to reduce the sum by the amount of share capital which is shown in the balance sheet.

I would like to take further advice on that particular point, Mr Chairman, and come back to it later.

HON MAJOR R J PELIZA:

Mr Chairman, I am really shocked, as a Member of this House to see that money that was given to Gibraltar is now given, not to Gibraltar to be controlled not by the people of Gibraltar through their representatives, but is now going to a company which is going to be controlled by a number of directors who even at this moment we do not know who they are. That is bad enough but to be told that this has been done at the suggestion of the Gibraltar Government I think that is an outrage because it is taking away the constitutional rights of the Gibraltarians to spend money in the way that their elected representatives, as their watch dogs you might say, authorise in this House. And that, in fact, was not only even going to be asked, it was going to go through as an amendment to the incorporation of a company. I think that is shameful.

HON ATTORNEY-GENERAL:

I simply want to say that it is not an unconstitutional provision because there are sections in the Constitution which provide for the way in which this matter is being handled.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

HON ATTORNEY-GENERAL:

Mr Chairman, the point made by the Honourable Mr Bossano is one I think which could be dealt with by a short amendment to the amendment because the point of this point, if I am talking about an amendment to an amendment I might as well talk about points to points, but the point of his point is that the money that comes into the fund might go out into the company by way of share subscription or as the report has earlier indicated might be expended by the Government itself. Mr Chairman, I would therefore move the following amendment to the amendment, namely, to amend subsection (4) of the new clause 6 to add after "company" the following words: "or for expenditure on assets belonging to the Government that are or are to be leased by it to the Company". Mr Chairman, I move accordingly.

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

HON P J ISOLA:

By putting it in in this way it excludes any part of the £28 million being spent, for example, in working capital because the amendment now reads that the £28 million can be used for the subscription or purchase of shares in the company for expenditure on assets belonging to the Government but are to be leased to the company so the money can only be used for expenditure on assets.

HON ATTORNEY-GENERAL:

If the Honourable Member will give way. We are having two options, either to subscribe the shares which is the way you can get money for working capital, or in respect of assets which are not going to be owned by the company, to apply the money for the improvement of those assets, the ownership still remaining in the Government.

HON J BOSSANO:

Mr Speaker, I regret to say that this amendment will make the practical job of setting up a commercial dockyard more feasible than it would have been with the original drafting of the Government. I shall be voting against the amendment and against the original amendment and of course against the Bill because I do not support commercialisation and I do not support the Shiprepair Company.

HON CHIEF MINISTER:

I hope the Honourable Member will accept that it meets the point that he made.

HON J BOSSANO:

The point that I was making, Mr Speaker, really were two points, one was if it was a conscious decision to do it that way then it seemed to me to be a decision that has not been explained and, secondly, it was a decision that appeared to me to make the whole thing very impractical and cumbersome since once the company had issued shares to the Government in order to obtain the money to improve the assets, they will then have the difficulty of how to write off that money on their balance sheet or depreciate it or do anything else which presumably is the way they would handle any money that they get by way of shares to spend on fixed capital or on working capital. It does need the inconsistency that I saw and therefore it makes the thing more workable and consonant with the original proposals but I do not support it because I do not support the Shiprepair Company.

HON P J ISOLA:

Mr Chairman, there is another point that I would like to bring on this. We are not supporting it for all the reasons of principle that we have pointed out but, again, should it be called the Gibraltar Shiprepair Limited Fund when it is not going to go entirely to the Gibraltar Shiprepair Limited Fund? Would not a more appropriate name be the Gibraltar Dockyard Commercialisation Fund because some money is going for shares in the company and some money is going direct to the tax payers.

HON ATTORNEY-GENERAL:

I take the nicety of the point being made by the Honourable and Learned Leader of the Opposition but it is of no legal consequence.

HON P J ISOLA:

Except the legal consequence of confusion, that you set up a fund Gibraltar Shiprepair Limited for the money for them and you don't give it to them, you give it to somebody else, that is the only technical consequence, I suppose.

HON ATTORNEY-GENERAL:

I hope you will not take this the wrong way but I think that is a debating point, really. The legal consequences of that section are contained in subsection 1 to 4 and there is no doubt that there is no legal confusion involved.

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment to the amendment and on a vote being taken the following Hon 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon 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 W T Scott
The Hon G T Restano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon Attorney-General's amendment to the amendment was accordingly passed.

Mr Speaker then put the question in the terms of the Hon Financial and Development Secretary's amendment as amended, and on a vote being taken the following Hon 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon 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 Hon Member was absent from the Chamber:

The Hon A T Loddo

New Clause 6, as amended, stood part of the Bill.

Clause 7 (Old Clause 6) was agreed to and stood part of the Bill.

Clause 8 (Old Clause 7) was agreed to and stood part of the Bill.

New Clause 9

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have to move the addition of a new Clause 9 as follows:

"Protection of name (9) Notwithstanding any provision in the Companies Ordinance, no company other than the company may be formed or registered in Gibraltar with the name Gibraltar Shiprepair Limited".

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

HON P J ISOLA:

Mr Chairman, we are voting against this Clause because it constitutes an insult to the Registrar of Companies. As if the Registrar of Companies would even contemplate ever allowing a company to be formed by exactly the same name of an existing company. He is precluded from doing that by the Companies Ordinance. If the amendment were to have read "or by any name that could cause confusion", etc etc etc, perhaps, but to ask the House to vote for something like this, Mr Chairman, is an insult to the administration of the Registry of Companies in Gibraltar. We have more faith in the Registrar of Companies than the other side seem to have.

HON ATTORNEY-GENERAL:

Mr Chairman, a very short answer to that is that the Company has not yet been incorporated.

HON J BOSSANO:

Mr Speaker, does that mean that if somebody actually goes out and incorporates such a company between now and the time that this becomes law the Gibraltar Government will not be able to go ahead with commercialisation.

Mr Speaker put the question and on a vote being taken the following Hon 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 k G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor.

The following Hon 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 Hon Member was absent from the Chamber:

The Hon A T Loddo

New Clause 9 stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Pensions (House of Assembly) Amendment Bill, 1983, the Gibraltar Shiprepair Limited Bill, 1983, the Wireless Telegraphy (Amendment) Bill, 1983 and the Supplementary Appropriation (1983/84) (No.3) Bill, 1983 have been considered in Committee and agreed to in the case of the first three Bills with amendments and in the case of the fourth Bill without amendment 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 Pensions (House of Assembly)(Amendment) Bill, 1983; the Wireless Telegraphy (Amendment) Bill, 1983, and the Supplementary Appropriation (1983/84) (No.3) Bill, 1983, the question was resolved in the affirmative and the Bills were read a third time and passed.

On a vote being taken on the Gibraltar Shiprepair Limited Bill, 1983, the following Hon 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 Hon D Hull
The Hon B Traynor

The following Hon 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 Hon Member was absent from the Chamber:

The Hon A T Loddo

The Bill was read a third time and passed.

HON CHIEF MINISTER:

Mr Speaker, as I indicated this morning, I move under Standing Order 7 (3) to change the order of business and proceed now with the Private Members' Motions.

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

The Hon I Abecasis
The Hon A J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Members voted against:

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 Hon Member was absent from the Chamber:

The Hon A T Loddo

Standing Order 7(3) was accordingly suspended.

PRIVATE MEMBERS' NOTIONS

HON J BOSSANO:

I beg to move that: "This House considers that persons aged 60 and over should receive insurance credits whilst unemployed and not be subject to a maximum period of 26 weeks as provided for by Clause 10(3) of the Social Insurance (Contribution) Regulations, 1965, and calls for the said Regulations to be amended accordingly". Mr Speaker, I have brought the motion to the House (a) because in fact I thought that the Government had already accepted the principle of moving in this direction and I find it has not materialised and (b) because it seems to me that the need for such legislation has become even more pronounced in the light of the way that the rules for redundancies are being drawn up by the UK Departments which is the same as the rules are in UK. The situation is that the Trade Movement has been pressing the Government to introduce a reduction in the age at which males become eligible to collect old age pension from the Social Security Fund and as a result of a memorandum the Chief Minister said that although his party was committed to the principle, in fact I think there was a motion passed at the general assembly of the AACR committing the party to such a policy, the Government felt that they couldn't move in this direction because the cost was estimated to be in the region of £2m if it was done all in one go and in fact £½m if the reduction in the age of entitlement for males was lowered by one year. But the problem of that particular category of worker that is obliged to give up his employment at the age of 60 was a problem that was recognised by the Government, I don't think the letter said that but I think it was clear in meetings. I think the letter said, in fact, people are compelled to retire before the age of 65 and who continue to pay social insurance contributions until they reach full pensionable age and in this connection whatever proposals are agreed will be contained in the usual statement by the Minister to the House. It had been hoped that Government would accept that the possible loss of revenue to the fund from the numbers involved in this category would not make a significant dent and if it did make a dent at all which had to be made up by the rest of the contributors, since we are talking about a very small number of people against something like an insured population of 12,000 at the moment, spreading the cost of the loss of contributions amongst the 12,000 would

make a very insignificant increase in contribution necessary among the rest. The Government, I believe, has moved in this direction by not increasing the rate for voluntary contributors in the same ratio as has been done in previous years but I don't think that is enough Mr Speaker, and here the Government itself under the pensions rules that it applies to non-industrial Government employees which requires them to retire, the only people that are over pensionable age in the non-industrial civil service are those who are not pensionable, that is, people who are taken on temporary and non-pensionable employment, may retain their employment because they do not accrue pension rights but people who do accrue pension rights are obliged to retire at 60 unless these are really very compelling reasons and, generally, it means that the person concerned is irreplaceable other than by bringing in a contract worker. In the past, Mr Speaker, in a situation where unemployment has not been a problem, what has tended to happen is that people who are retired at 60 then in fact get a second job and they have an improvement in their income because at worst they are no worse off than they were before they were employed because they have got their civil service pension, and they have got their income from their new job and they pay social insurance contributions as employees and their employer pays the other half. Of late the situation has been that people compulsorily retired at 60 have had to compete with younger men for scarce jobs in a labour market where every day there are less opportunities and more people competing for jobs and in those circumstances the elderly person of 60 retired already from a job stands at a disadvantage because of physical limitations employers generally prefer a younger man and in any case there is also a certain amount of resentment from the unemployed that somebody who is already getting a civil service pension should be taking away a job from somebody who is younger and has got a family to support and no income. So on the one hand they are thrown on to the labour market by a pressing need and on the other hand they are themselves seen as acting antisocially for trying to get a job that could go to somebody else. The situation with the UK Departments is that applying UK rules to Gibraltar before they make anybody redundant they start off by retiring people at 60. There are two basic reasons for doing this, the most obvious one is that the Treasury requires the UK Departments to carry out their redundancy procedures in the most economic way possible and people who are 60 are not entitled to redundancy payment so if they retire a younger person the younger person has a preserved pension and a redundancy payment which in some cases is almost as much as their wages would be if they carried on working until 60. The UK Departments in drawing their lines of priority have said before we decide how many people we need to make redundant if there are going to be less jobs, the first thing we do is oblige everybody to retire at 60 because in fact under the UK

Departments pension scheme, continued employment after the age of 60 is based on two things (1) that the person is physically fit and (2) that the employer needs them, and the employer can hardly argue that they need somebody over pensionable age if they are compulsorily making redundant a younger person and paying redundancy payment. So we are talking about a situation where the numbers involved are going to increase if the UK Departments carry out their intentions but in any case the situation that already exists even though today, really, the main source of retirement at 60 are the non-industrials in the Gibraltar Government. Of course, there is from the private sector as well a number of people over the age of 60 who are in this situation but not because there is a policy of retiring people at 60 but because people who lose their jobs for other reasons, people who lose their jobs because a firm contracts then find it very difficult to become employed again and they are really in the worst position of the lot because they have no income at all other than supplementary benefits. The additional argument, I think in support of this is that the person concerned, the worker, concerned, the male, is in a situation where he has to contribute from a very limited income in order to get the same pension as a female contributor gets five years later so there is clearly here a situation of sex discrimination where the discriminated party is the male and on top of that it is aggravated because the male has got to contribute for five years longer, not just has to wait five years longer to get the pension but has to contribute for five years longer and contribute with a great deal of hardship because even at best the person that has got a full government service will come out with half pay from Government service and that half pay will put him on par and there are very few people in that category. The bulk of the people concerned, in fact, quite often are having to supplement their income by applying for Government assistance. I therefore, Mr Speaker, I think that in putting this motion now before the House I am asking the House to recognise that the problem exists and to agree to doing at this stage something that is within Gibraltar's means, something that is possible for the Social Insurance funds to bear and something that at least if it doesn't solve the problem of this particular category of people, at least it will lessen the hardship that they are having to undergo at the moment and let us do it now before we find that the problem has grown bigger because there are more people in the category concerned. I commend the motion to the House.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, let me say straight away that I fully sympathise with the motion brought forward by the Honourable Mr Bossano. It is no secret between us that every time we meet at the Manpower Planning Committee I have always told him that this was of great concern to me particularly. The only problem with the way that the Honourable Member has presented this motion, as I see it, is that he has made it so wide that we are going to give benefits to people who can afford to pay the social insurance contribution. I could retire at 60 and be earning £200 pension, why should I be privileged when somebody who is earning less has to pay social insurance contribution? I agree with the sentiments expressed by Mr Bossano, I have said to him many times privately that the way he has presented this motion means that anybody who is 60 no matter how much money he earns on a pension, no matter how much money he has got, he doesn't pay anything else. To me that under the present situation of what I consider social justice, it is not right because how is it possible for a person who can retire earning £100 a week not to pay any social insurance and a person who is only earning £60 or £70 and is younger has to pay social insurance, to me it is not equitable. I have full sympathy with the way that he has presented the motion, I know where he is going and I agree with it but.....

HON J BOSSANO:

Will the Honourable Member give way on one question of clarification. Is he saying by implication that the present system is equitable?

HON MAJOR F J DELLIPIANI:

No, the present system is not equitable but his motion will not make it any more equitable. It cannot make it more equitable if somebody is earning less and has to pay and somebody who has a pension hasn't got to pay. I hope that he will agree with me on that point. As the Honourable Member has rightly mentioned, he has brought in other things into the motion when he has mentioned unemployment and youth opportunities and work for youngsters so the way that I would approach it would be in the broad context of the unemployment/employment situation of Gibraltar as it exists now and as the problem will get worse in the future. I cannot treat it in isolation. In my introduction this year to the new Social Insurance Contributions which will come into effect on the 1st of January, I went through the whole question of the cost of bringing the old age pension down to 60 and I conceded something in that now they are not paying more if they are unemployed which you

have considered here. But I also make the remark that although the granting of credits after 60 should not be introduced in 1984, serious consideration should be given to their introduction in conjunction with the move to a system of retirement pensions for 1985. I think the Honourable Mr Bossano was not here when I made this statement. Already I was thinking of 1985. In the meantime the Government has formed a committee composed of Ministers who are big employers like the Public Works Department, like the Minister for Municipal Services and officials and myself as Minister of Labour, which is chaired by my colleague the Minister for Economic Development and Trade and we are looking into the whole spectrum of employment policy, retirement policy, pensions policy, the whole spectrum of unemployment/employment that is happening now. I have never myself wanted to treat anything in isolation because I would consider it wrong just to think of it going one way when maybe by going other ways we can better solve the whole problem of unemployment and employment and the injustice that I consider is being done under our own present system where persons who retire without a proper pension have to continue paying when they are earning less. The Honourable Member will be aware that I have intervened personally in a few cases that have come to my knowledge. So I am going to do what we always do to Mr Bossano and that is I will try to introduce an amendment. The sentiment will still be there but I cannot allow the question of everybody over 60 being given the chance not to pay. I am introducing the amendment with the proposal that it is a global thing which the Government is considering which has already met and considered the whole unemployment situation and the whole future of employment in Gibraltar. In this context though I am going to say delete all after "that" I am sure that the Honourable Member will understand that the sentiments are there and not only that, that where in my introduction to the 1984 social insurance I gave a date of 1984, in my motion I am not giving a date. At least in 1985 I am giving a deadline but in my motion I will not give any deadline so the introduction could be sooner than 1985 and I hope that the Honourable Member opposite will accept my amendment. I propose that the motion be amended by deleting all the words after "that" in the first line thereof and substituting the following "in the context of the general review of employment and retirement policy at present being undertaken by the Government, consideration should be given to the removal of the present limitation under Clause 10 (3) of the Social Insurance (Contributions) Regulations which provide that persons aged 60 or over who are compulsorily retired shall, whilst unemployed receive insurance credits for only 26 weeks". Mr Speaker, though I have not put into this motion the question of the money limitations I mentioned, it is in the context of the committee which is chaired by my Honourable Colleague

Mr Canepa, that we are considering putting a minimum wage where if you receive that minimum wage or minimum pension or minimum income, you are automatically entitled to a credit until you reach the age of 65. The way they are looking at it is that we will have a wage limit and any person who earns less than that will be credited until he is 65. I am also adding that the onus is on the person who is over 60 to come to my department with proof that he is unemployed and that he has no other income except the one that gives him the entitlement to credits. I hope the Honourable Member will accept the fact that I am agreeing with this motion, that I am trying to make it more equitable in a sense because I do not think that if you can afford it you shouldn't pay for it, and the fact is that it is a whole series of measures which the Government wants to introduce to tackle the employment/unemployment situation. I commend my amendment to the House.

Mr Speaker proposed the question in the terms of the Hon Major F G Dellipinal's amendment.

HON J BOSSANO:

I want to move an amendment to the amendment because I take it that in moving the amendment the Minister is trying to meet me somewhere along the road so I am just trying to determine where along the road it is that we meet. The amendment I propose, Mr Speaker, is the deletion of the words "who are compulsorily retired" and the reason for doing that is because by limiting it to people who are compulsorily retired I think we are not doing anything that has been defended so far. I said the people who are compulsorily retired are Government's own employees and nobody else virtually, is compulsorily retired at 60. The reason why they are compulsorily retired is because there is a requirement in the Pensions Ordinance that public servants must retire at the age of 60 only in the Gibraltar Government. In the UK Departments there is a requirement that people must retire at the age of 65 but may be retired at the age of 60 (a) if they are in poor health (b) if the department cannot continue to use their services. So I think that if we went by the letter of the amendment, and I am sure that is not the spirit, effectively, we would be asking that the only people in Gibraltar who should be given credit should be retired non-industrial civil servants from the Government of Gibraltar who are the people who are said to be compulsorily retired. We have a situation, as I have mentioned, where, for example, we have got in the construction industry firms that have got rid of every single worker, they have really gone down to simply keeping an office and a clerk in that office in the expectation that there will be contracts some time in the future and that they want to maintain a presence because of

that. They have got rid of people over 60. Those people over 60 have gone and registered as unemployed. They have used up their unemployment benefit, they have no income at all, they have no pension, they have not been compulsorily retired and they find it much more difficult to be re-employed and I think that they should not be deprived of the opportunity of being given, it certainly is the category that is in greatest need within the question of the Minister's argument that there could be somebody earning £200 a week who might wish to apply for a credit, well, there could be, it is obviously not an impossibility, but I must say that there must be very few people around with £200 a week wishing to claim credits because they are over 60 and presumably if the Minister can countenance females with £200 a week being able to be paid tax free social insurance pensions, I don't see why he should be so worried about males with £200 a week having to wait five years to get the social insurance pension without having to pay stamps for five years. I really think that argument is not a very strong one to use as an argument against the motion, but I am prepared to accept the amendment in the spirit that the Government is willing to do this before 1985 if they are able to do it before 1985, I think it is necessary to remove the words "compulsorily retired" because in my view the strict interpretation of those words narrow the eligibility of those for whom such a move would be made virtually at this stage to people who are non-industrial Government employees and nobody else. I also want to make clear, Mr Speaker, that of course in accepting the amendment I am not endorsing the general review of employment and retirement policy which I don't know what it consists of. The party that I represent has got its own policy as to how it would handle the social security system and we would obviously deal with the payment of pensions at 60 in that context, not with the granting of credits in that context. We think the granting of credits can be done now with the existing resources, that the cost is minimal and that there is no problem in financing it. It is quite obvious that the Government is not prepared to do it now. We don't think that it requires a general review of the overall social security system to do just that. I would certainly agree with the Minister if he was saying to me that in order to pay pensions at 60 to everybody he would need to do it in the context of an overall review. I am prepared to accept the amendment, that is, I am prepared to support it myself subject to the words "compulsorily retired" being removed and I so move that the words "compulsorily retired" be deleted from the amendment.

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

HON W T SCOTT:

Mr Speaker, before the amendment to the amendment to the original motion is perhaps further amended by the Minister of Labour I think I might pass a few comments, if I may, whilst still not giving up my right to talk on the original amended motion.

MR SPEAKER:

If you speak exclusively on the present amendment, yes, because that is what is before the House.

HON W T SCOTT:

Mr Speaker, I think what has come out clearly is that there is sympathy within all sides of the House to the individuals who might be caught up in the circumstances in time to come and it is in that spirit that the mover introduced the motion.

MR SPEAKER:

No, no, with respect. What we are talking about now is whether we should widen the category of people and that is all you are entitled to speak about at this stage. By leaving out the words "who are compulsorily retired" you are widening the category of people who would qualify and that is the only question before the House just now. I am saying this to you because you have reserved your right to speak on the main motion. If you want to speak generally on the whole of the motion I have no objection.

HON W T SCOTT:

That was my understanding and it was on that understanding that I am making my contribution.

MR SPEAKER:

Then go ahead by all means.

HON W T SCOTT:

I think, Mr Speaker, it is the spirit that the mover presented that motion that the sympathy of the House should be translated into an amended motion that commits the Government in a very finite way to the people caught up under these circumstances. The point obviously is taken by my party by the Minister where the expression whilst unemployed but still could be in receipt of a substantial income well and above that that would otherwise not qualify him and I would have thought quite frankly

that a simple amendment by the Government substituting the words "whilst unemployed" and reading something like "in receipt of an income no greater than the social insurance pension or the minimum age" or whatever would have perhaps committed the Government and translated the Government's thoughts to the sympathy that the Minister has expressed. If the Government itself had moved such an amendment Mr Speaker, I think certainly our party would have voted on that basis, we would have voted for the amended motion. I take the point that the motion does require an amendment and I look for a further initiative from Government to further amending it to commit Government rather than leave it for the review body looking into employment and retirement policy of the Government just for them to consider it. I feel this is far too loose and does not give the protection that the people that will be caught up in these circumstances are looking for now, they are looking for that now, not in a year's time and I feel that under the circumstances Government ought to commit itself in a finite way in a manner that translates its spirit as demonstrated and as said by the Honourable Member opposite to such a motion.

HON A J CANEPA:

Mr Speaker, I read the last part of the motion as being a reference to what Clause 10(3) of the social insurance contributions are providing for and if the social insurance contributions provide as they do, section 10 part III credit, is about unemployment, you cannot amend the reference to "whilst being unemployed" because that is what the whole thing is about. This part of the regulation, Part III, is credit for unemployment Section 10; Section 11 credits for incapacity; Section 12 unemployment and incapacity in same week. You cannot in a motion amend the regulations just like that. I think the Honourable Mr Scott has got to accept the spirit, the commitment which the Government is entering into having regard to what my Honourable Friend the Minister for Labour has said and the intention which we have, having regard to the limitation which has been expressed in-so-far as people of a certain income are concerned because they happen to have a very good pension and the Government considers that they should not be exempt from paying contributions when they are in a better position to do so than other people in employment. But I don't think we can just willy nilly start striking words out of the motion which is making a reference to the regulations.

HON W T SCOTT:

If the Honourable Member will give way before he sits down. Perhaps I should have said whilst unemployed and not in receipt

of a pension larger than a certain amount. Would that clear the point?

HON A J CANEPA:

No, I don't think he gets my point, Mr Speaker. I don't think that the last part of the motion is absolutely clearcut because my reading of this motion is that there is a reference being made here to what the regulations are providing for. It says under Clause 10(3) of the social insurance contributions regulations which provide that, the regulations provide certain things, which are summed up there and one of the things that they provide is that insurance credits can only be paid for 26 weeks. We want to remove that limitation and allow insurance credits to be paid between the age of 60 and 65 whilst the person remains unemployed but I don't think that you can be striking words out of the last two lines of the motion just like that because then we would be passing a motion which is making a reference to something which in fact is not the case. Because you cannot alter what the regulations are providing for because the regulations are law. In a motion by altering that we would be factually incorrect. That is the point that I am trying to make.

HON J BOSSANO:

If the Honourable Member will give way. The regulation does not in fact say that persons aged 60 or over who are compulsorily retired.

HON A J CANEPA:

No.

HON J BOSSANO:

So in fact the Honourable Member is just giving another argument for supporting my amendment.

HON A J CANEPA:

No, they don't and this is why I was puzzled. Whilst the Honourable Member was speaking I was puzzled in trying to reconcile the few words "who are compulsorily retired" with what there was in the regulations. The regulations make no reference whatsoever to being compulsorily retired and that is why we can go along with the deletion of those words because that is factual, but we cannot go along with the deletion of the words which the Honourable Mr Scott is seeking because that is not factual.

HON W T SCOTT:

The addition, actually, not the deletion, the addition of some extra words after "whilst unemployed", not the deletion.

Mr Speaker then put the question in the terms of the Hon J Bossano's amendment to the amendment which was resolved in the affirmative and the amendment to the amendment was accordingly passed.

MR SPEAKER:

The amendment is therefore carried and we have before the House the question as moved by the Honourable and Gallant Major Dellipiani as amended by the deletion of the words "who are compulsorily retired" and any member who has not spoken to the question is free to do so.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I welcome the deletion of the words "who are compulsorily retired" because as I say it is all tied up, the way I projected it, with employment and unemployment and if a chap voluntarily retires at 60 it might provide an extra job for somebody else so therefore by deleting "compulsorily" I may be opening other jobs so I welcome the amendment and I support it.

Mr Speaker then put the question in the terms of the Hon Major F J Dellipiani's amendment as amended, which was resolved in the affirmative and the amendment was accordingly passed.

HON J BOSSANO:

Just two points, Mr Speaker, that I would like to put to the Government in asking them to do the necessary to implement the motion and the spirit which the member has spoken in this motion. One is that the fact that consideration is given and I do not object to the word "consideration" there because in fact my original motion says "this House considers" and I think it amounts to the same thing, it is using words in a different way but I wasn't asking for more than that because in fact I cannot put a motion, as I understand it, changing the actual regulations myself. I am calling for the regulations to be amended and as far as I am concerned the commitment of the Government that that should be considered in the context of the general review, I put it to them doesn't mean that they have to wait for the general review to do this. I accept that they shouldn't be doing something at this stage that might be inconsistent with something they are planning to do ahead of time but I put it to them that this should be dealt with at

least the first stage and the thing that is given most priority irrespective of what may be done later which I accept should not be inconsistent with this. Secondly, the fact that it is something that can be done by regulation I think is fortunate because in fact it means that once the Government is ready to do it, they should be able to do it without needing to come back to the House and I welcome the support that there has been given in the contributions, I hope that they will be able to implement it soon.

MR SPEAKER:

I will then put the question which is "That this House considers that in the context of the general review of employment and retirement policy at present being undertaken by the Government, consideration should be given to the removal of the present limitation under Clause 10(3) of the Social Insurance (Contributions) Regulations, which provide that persons aged 60 or over shall, whilst unemployed, receive insurance credits for only 26 weeks".

The question was resolved in the affirmative and the motion, as amended, was accordingly passed.

HON W T SCOTT:

Sir, I beg to move that: "This House welcomes the success of the Industrial Training Scheme run by the Construction Industry Training Centre but regrets that Government has neither extended this scheme to cover other areas of youth training nor initiated a Youth Opportunities Programme to provide worthwhile employment prospects for the youth of Gibraltar as has been constantly requested by the Opposition and urges them to do so without any further delay". Mr Speaker, there is a historical background to the introduction of this motion which goes back to November of 1980 and that deals with the first part of the motion welcoming the success of the industrial training scheme. When I introduced that motion and I will not go into it deeply, even Mr Bossano said of it that it was too revolutionary for him but, thankfully, an amendment which he introduced, which was further amended by the then Minister for Labour, Mr Canepa, at least ensured that the motion, or the spirit of the motion, was carried and that in fact, Mr Speaker, was the first time that I am aware of that the House committed itself, or the Government committed itself, to providing industrial training opportunities for the youth of Gibraltar. I think, Mr Speaker, that having now had something like two years experience of that training scheme and whereas in the first year or so it did not have the expected success judging by the numbers or the lack of numbers of young Gibraltarians who did not make use of that

scheme, I think it was the Honourable Minister for Labour himself only quite recently in this House also gave the news that this year the intake was something like 30 or 40 young men. And it is in that context, Mr Speaker, that the second part of the motion is directed and that is that it regrets that Government has not extended the scheme to cover other areas of youth training. In that context, Mr Speaker, one was glad to hear at the opening of the Construction Industry Training Centre, a ceremony that unfortunately I wasn't able to attend, the guest speaker who I understand was the Minister for Public Works, gave an indication that Government did have an intention of extending that scheme to cover other areas and the Minister of Labour, the Honourable and Gallant Major Dellipiani, has himself been shown to be wrong because I remember for a number of years he has been saying here of the youth of Gibraltar that they do not want to dirty their hands, they are not willing to enter into an employment where they might be subjected to things that a penpusher is not and he did not seem to have much faith in them. Thankfully, Mr Speaker, and I am sure he would be the first to admit this, certainly insofar as the Industrial Training Scheme is concerned, he has been proved wrong and the youth of Gibraltar has been proved right in that sense. And it is only in that sense, Mr Speaker, that one is now calling for that scheme to be further extended to cover areas not only for young men but also for young women and I have no doubt at all, Mr Speaker, that the unemployment figures as reflected to the 31st of October, 1983, which show a not too unacceptable level of youth unemployment is perhaps to a very great degree due to the success of that scheme and the number of young men that are participating in it. But, in fact, Mr Speaker, the last part of my motion runs a little bit deeper than that and that is something that I personally in questions in the House have been urging the Government to do for quite a long time and that is the introduction of a Youth Opportunities Programme, a Youth Opportunities Programme which will provide the young school leaver who ordinarily today finds it difficult to obtain employment, perhaps because he or she is not suitably academically minded and that individual finds himself very shortly after having left school, gone through a whole summer perhaps in the beach, attempting to get a job and cannot do so. I am thinking here particularly of young women who do not have the opportunity to enter into the existing scheme. I think, quite frankly, Mr Speaker, and I am sure the Honourable Minister for Labour is quite familiar with the old Youth Opportunities Programme as it used to be run in the United Kingdom, I think on the initiative of James Callaghan, and the changed one, the adopted one, which is now a Youth Training Scheme ran by the Conservative Government although its duration is only one year it does provide on the job training in the field it makes the young individual not feel as rejected by society as he would perhaps otherwise find

himself. I think within that context, Mr Speaker, it opens up a spectrum for debate that I am not going to enter into at great length but only to suggest that education in schools in Gibraltar seems to be taking a turn and has been taking a turn over the last few years where it is directed principally at the acquisition of academic standards through the passing of the relevant exams directed at the very few pupils who are able to do so and not at the vast majority of pupils do not have that standard, who cannot look forward to attaining the required 'A' level exams leading on to further education in the United Kingdom. I think there is a great problem that we have been having in Gibraltar and that is that the schools are responsible for educating young men and women to make them fit and proper persons so that in time they can take their rightful place in the society that they belong and it is that context that I feel that too much stress has been laid by both comprehensive schools to the acquisition of high academic standards to a few fortunate individuals that incidentally once having acquired their mandatory scholarships very few return to Gibraltar and give the benefit of their training to Gibraltar which is a totally different thing to the young industrialised individual through the Industrial Training Scheme or in fact through a Youth Opportunities Programme where that young man or that young woman in the majority of cases would be able to use their experience for the benefit not only himself but also of the community at large. Mr Speaker, a Youth Opportunities Programme quite simply need not of its own necessity involve Government in a huge financial expenditure as the Minister well knows. There are circumstances in fact where it is not necessary for Government itself to employ these people. The way I understand it as it was run in the United Kingdom and as indeed the present system is run in the United Kingdom, it makes it more attractive for a prospective employer to employ that young man or that woman by offering to pay a certain element of the salary or wage of that young man or woman that would normally cost the Government even more through unemployment benefit or social security benefit. There is, Mr Speaker, a valid argument, even a valid financial argument to take that consideration quite seriously. Mr Speaker, I remember that in November, 1980, the Honourable Minister for Labour at the time separated quite distinctly the function of education and the function of industrial training and I wonder whether Government has thought, and I am sure it has, when it eventually gets possession and run the Technical College whether or not the two should be merged in some way or other precisely to bring in a system of training and a Youth Opportunities Scheme which can only be to the benefit of Gibraltar and its youth in particular. Mr Speaker, I am not going to delay this any longer, I think I have put forward the main points of what I have to say and I look forward to what possible initiative the Government might have which has been sadly lacking over the last two years.

Mr Speaker, I beg to move.

Mr Speaker proposed the question in the terms of the Hon W T Scott's motion.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am glad the Opposition acknowledges the success of the Youth Training Scheme but I said when we were trying to introduce the scheme that I would go slowly on this question because I am not sure it was going to be a success. I certainly do not want to be the Minister who creates white elephants. I always want to make sure that whatever I introduce works. The first year it didn't work, the second year which is this present year, we have 45 youngsters who are very keen and working very hard so I think now I can move a step forward. I certainly was not going to move a step forward when only six people came and applied. This is the way I act, I don't do it to catch votes or to do anything like that. I do it as a matter of principle, I want to do it in logical steps. I remember when there was this motion on youth opportunities, I mentioned the question of the College of Further Education, I don't know whether the Honourable Member will remember.

HON W T SCOTT:

Mr Speaker, it wasn't a motion on youth opportunities, this is the first one we have ever had.

HON MAJOR F J DELLIPIANI:

I see the whole thing in fact connected together. The College of Further Education, the present Industrial Training Scheme, and youth opportunities a la Great Britain. But let me say that in the Great Britain Opportunity Scheme there are certain limitations which I at the moment am not happy about. For example, one limitation is they are under 18, if you are 19 you have had it, you don't get the opportunity. We might not want that limitation in Gibraltar. The Honourable Member has regretted in his motion that Government has not extended this scheme. Government could not extend the scheme, as I have said, until it was sure that it was working.

HON W T SCOTT:

Ye of little faith.

HON MAJOR F J DELLIPIANI:

Well, I was proved right for a whole year. I am glad the Honourable Member has referred to the speech by Mr Featherstone

when he said that the question would be extended because of the encouraging response that we have had this year to provide more training opportunities in appropriate areas for girls and for boys so before the Honourable Member brought this motion forward my Honourable Colleague Mr Featherstone had already suggested and said it as a matter of policy.

HON W T SCOTT:

If the Honourable Member will give way. I don't want to interrupt him again.

MR SPEAKER:

You will have the right to reply.

HON MAJOR F J DELLIPIANI:

I would just like to emphasise that the Minister for Public Works mentioned this in a speech at the Construction Training Centre, that Government was looking at providing more training opportunities and in appropriate areas for girls as well. I can assure the House that this is being actually pursued. Not only that, in the present scheme in the Industrial Training Centre we are already thinking of ways and means of improving it and possibly of actually getting the youngsters who are at the moment receiving an overall construction training background, of possibly extending it for next year and specialising on a particular subject. We are already thinking of that and the Training Officer has already submitted a report to me on how we should approach the question of extending and improving the training scheme. I am also interested in the Youth Opportunities Scheme which is running in the United Kingdom and it doesn't necessarily mean, as the Honourable Member has mentioned, that it is connected with Government employment which will only create greater bureaucracy than we already have. It is intended, in fact, for private firms. I have a lot of sympathy towards this scheme but I want to connect it with the question of training and I would like to see a way where we have not only training on the job but the employer agreeing to release this person to have further training maybe in the College of Further Education or in the Construction Training Centre. This is not the scheme operating in England. In England it means you work for a year and the Government pays the employer £15 and the employer makes it up to £40. We are thinking of going a step further ahead than in the United Kingdom. This is why I have always said that I wanted the control of the College of Further Education so that we could gear the needs of Gibraltar in education and in employment and I must say I agree with the Honourable Member's remarks about the gearing

of schools towards 'O' levels and 'A' levels. I think during the last year in school there should be a lot of vocational guidance and training, far more than there is now. But I would say, Mr Speaker, that there are certain areas of training that no matter how attractive we make it the youngsters of Gibraltar are still not interested. They are not interested in the catering trade. I suggested to some members of the Trade Union Movement of maybe introducing a scheme where we could train people to be waiters because I think waiters require a certain amount of skill. I was told "Don't do it, you won't get anybody because they would be working unsocial hours, Saturdays and Sundays and they are not interested". I am convinced that they are not interested, it is a fact of life. I think there is an indication that things are moving where Gibraltarians are now accepting the fact that they have to look elsewhere other than to local Government or the nice firms that have the nice jobs and the easy cushy jobs, that things are moving in that direction. They haven't gone far enough but they are moving. So in essence, Mr Speaker, I agree with what the Honourable Member is trying to put across to the House but as a member of the Government I cannot accept the word "regrets" and things like that and I think he put it there knowing fullwell that I could not accept it. I propose an amendment. My amendment, Mr Speaker, is that all the words after the word "Centre" in the third line be deleted and substituted by the following: "asks the Government to extend this scheme to cover other areas of youth training and to give urgent consideration to the introduction of a Youth Opportunities Programme to provide worthwhile employment prospects for young people".

Mr Speaker proposed the question in the terms of the Hon Major F J Dellipiani's amendment.

HON W T SCOTT:

Mr Speaker, I was not that naive that I expected Government to have accepted my motion as it stands in its totality and I think that the first two and half lines could be taken by Government as a self congratulatory message but, however, I think quite frankly whilst I also regret that an amendment was found necessary, I really cannot accept the first word in the amendment which just asks the Government. I think it should be perhaps a word expressing the concern of the House and a little bit of a stronger word, a stronger word like "urges" the Government to extend the scheme to cover other areas of youth training because if indeed the Government has already said through the Honourable Minister for Public Works that it intends doing so, it is pretty useless us asking Government to do so, we are urging them to do so. On that basis, Mr Speaker, I would like to introduce an amendment to the amendment.

MR SPEAKER:

Do you honestly feel that the word urges will make any difference to the policy of the Government.

HON W T SCOTT:

Mr Speaker, I feel otherwise asking the Government to extend the scheme to cover other areas is not saying very much. I prefer, Mr Speaker, to introduce an amendment to the amendment by substituting the word "asks" by the word "urges".

Mr Speaker put the question in the terms of the Hon W T Scott's amendment to the amendment and on a vote being taken the following Hon Member's 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon W T Scott's amendment to the amendment was accordingly passed.

MR SPEAKER:

Does any Hon Member wish to speak on the amendment, as amended?

HON P J ISOLA:

I am going to speak once and I think this is the appropriate time to speak in view of the fact that this is the part of the

debate when the word "regrets" is leaving us. I think there is need for an explanation as to why we agree "regrets" should go and to put in "urges". I think if one can get a motion out of the wash that gets the intention of the mover in the form of a resolution of the House, it is preferable than having the whole thing defeated or altered by Government majority. I think I would like to congratulate the Honourable Mover in bringing this motion to the House. I think the question of youth training and youth opportunities is very important in the Gibraltar of today, it is very important that youth who look at the situation of Gibraltar as it is today with great disquiet and with pessimism, should be given the opportunity of turning their pessimism into optimism by putting forward worthwhile programmes. I, Mr Speaker, deputised my Honourable Friend at the Construction Industry Training Centre where certificates were given and I listened to the Minister for Public Works at that place and I was, I must say, impressed by the enthusiasm, not of the Minister for Public Works, of the enthusiasm of the young men who received their certificates, the enthusiasm of their parents, and I had an opportunity to talk about the success of the Industrial Training Scheme which at the time that my Honourable Friend moved his motion suggesting an Industrial Training Scheme for 18 years old and teenagers of a later age, a lot of cold water was poured on it at the time as they were not sure whether people would join or not, I was very impressed by (a) the enthusiasm there and (b) by the sense of achievement in young people but I was also told, it is only fair to say, Mr Speaker, that necessity was also a factor in the success of the scheme insofar as young people found employment opportunities were no longer there and they might therefore just as well go and learn a craft or learn a trade and get paid not very much but they get paid something for it and, of course, it is obviously a matter for regret that that should have been part of the motive but these are facts of life. But now, Mr Speaker, with the problems that face Gibraltar of unemployment right through the city as a result of the partial opening of the frontier and the closure of the dockyard and so forth, I think it is very important and that's why I welcome the very small amendment made by my Honourable Friend to the amendment of the Government of using the words "urging the Government" to do something quickly to extend the scheme to other areas of youth training and youth opportunities programme. I think it is important to try and get some sense of optimism or hope in the youth of Gibraltar and that needs vigorous initiative from the Government and I am glad that if, as a result of this motion, Government gets on with it quickly in the short period of time before the House expires on February the 28th, if they get on to something that is worthwhile and they get it going, well, let them get the credit for it too at the time but I think it is important to get the main thrust of my Hon Friend's motion, to get the

message home and to appear to be doing something to it so, I do hope that the Government will do more than just pay lip service to this motion as has happened, I am afraid, in a number of other motions that have been passed before the House and try and do something about it as quickly as possible and to consider it with the urgency that the motion itself urges on the Government.

Mr Speaker then put the question in the terms of the Hon Major F J Dellipiani's amendment, as amended, and on a vote being taken the following Hon Members voted in favour.

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Members voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon Major F J Dellipiani's amendment, as amended, was accordingly passed.

HON J BOSSANO:

Mr Speaker, I do not support the original motion and I do not support the amendment of the Government and I do not support the amendment of the Opposition to the amendment because it is the basic philosophy that I disagree with. I do not consider the Industrial Training Scheme to have been a success. I do not consider that one can quantify the success of a scheme simply by virtue of the fact that there are now 45 youngsters attending the Construction Training Centre because they are unable to find other employment. That is not a way of

measuring the success of the scheme. What are those 45 going to do when they finish at the end of the training? That is what one has got to ask oneself. The Government is spending public money in training people, what is it training them for? The Government is training them and the only defence that has been made of that scheme is, Mr Speaker, is that it can be substituted for the first year of an apprenticeship. What apprenticeship? There are no apprenticeships. The situation is that, in fact, as far as two years ago the Minister for Public Works was telling us in this House in 1980/1981 that he was facing difficulties in finding employment for final year apprentices and that he was worried that he might have to think along the lines of charity starts at home and if you have to choose between getting rid of an apprentice who has just finished learning to be a mason, do you get rid of a non-EEC national and let the apprentice stay on or do you get rid of the apprentice. That was the situation two or three years ago, I think it was in 1980/81. To have trained 45 people in the construction trades without knowing what is going to be the demand for the construction trades seems to be simply to produce a scheme not for training for a purpose and therefore I cannot welcome it, but for training simply because in the absence of nothing it is better than nothing and I do not support this for the same reason that I do not support the ship repair vision, which is no more than that, because the main argument put in support of it has been that somebody can produce cogent detailed analysis showing the prospects for viability and for security and for long-term employment but that it is better than anything. Anything is better than nothing and I am not prepared to welcome something because it is better than nothing. It is manifestly obvious that however poor something may be, if you accept that we have to be content with that or nothing then it is better than nothing. The Industrial Training Scheme, as far as I am concerned, is not a success. The people who are there are there because they are getting £15, they don't really know what they are going to do at the end of it and as I say substituting one year of an apprentice, it can only mean the Gibraltar Government. The Gibraltar Government would then have to decide that they would give preference to the people produced by the Training Centre over the other school leavers because the DOE is no longer training apprentices, the private sector construction industry is not taking anybody at all, never mind apprentices, they have not got any craftsmen left to teach apprentices, anyway. The Gibraltar Government is the last area taking apprentices and if the Gibraltar Government gave the jobs to the people who have now gained one year they could only do it at the expense of this year's crop of school leavers and this year's crop of school leavers would then feel that they have been unfairly treated because the others have already £15 for one year. I cannot see where it is the scheme is leading us to.

I have to remind the House that I proposed in August, 1981, on behalf of my party, a scheme for dealing with the situation before it got to the stage it has got to now, which was in principle welcomed by the Government and that is as far as it got like so many other things welcomed in principle. And it certainly was received with a very great deal of scepticism by my colleagues on this side of the House who said that the scheme was one of introducing a levy throughout Gibraltar on the public and the private sectors based on each employer paying so much per head through the Social Insurance Contribution, that is, the machinery for collecting it would not put an administrative burden on the Government because it could be paid at the same time as the Social Insurance Contributions. The revenue coming into the Government could be used to subsidise private sector employers or public sector employers taking in apprentices and the value of the scheme was that, in fact, if an employer is waiting for the public sector to produce the trained craftsmen for him or for a more enlightened employer to do it at no cost to himself, that is an incentive for not taking anybody on, whereas the essence of the scheme and it has got a long history in UK where there have been industrial training boards and industrial training levies, the essence of the scheme is that you reward the good employer by helping to subsidise his training costs at the expense of the employer who expects to recruit trained people without taking anybody in for training himself. It has a very long history and it has always had strong support from organised labour and from the Trade Union Movement and I thought that was the way we should move and I suggested it in 1981 and nothing happened. That is still the policy that I advocate and that is the policy that will form part of the programme of my party as the way we should be moving, although today with the change in labour force, we have already lost two years, who will have lost three years if we do it in 1984, and of course the longer we wait to do it the less logic there will be to doing it because the greater the burden that will be on whatever employers are left. Coming to the second part of the motion, obviously, since that is our policy, that is what I would urge Government to do so I cannot urge the Government to do something else. I have to inform the House that the Youth Opportunities Programme no longer exists in UK. I don't know whether Members are aware of it or not.

HON W T SCOTT:

I never suggested in the motion that it did.

HON J BOSSANO:

It was in fact done away with. I would have thought that if we want to introduce something here we might want to find out what is the latest situation in UK.

HON W T SCOTT:

I don't think the Hon Member was here when I made my contribution. I did mention the Youth Opportunities Programme in the UK, that it had been introduced by the Callaghan adminis-

tration and that recently it had been substituted by a youth training scheme. I did say that.

HON J BOSSANO:

Well, I think, Mr Speaker, that if in fact the Youth Opportunities Programme has been done away with there, is it then the view of the mover of the motion that it was superior to what there is now and that therefore we should go along with what there used to be rather than what there is. Because, in fact, the Youth Training Scheme in UK is a much wider scheme in the sense that it is intended to cover all school leavers. It has its limitations and certainly in UK organised labour and the trade union movement have been very reluctant to give it support but it is now supporting the scheme and it is co-operating with the scheme although it is moving it in the direction which has been agreed and accepted by the Manpower Services Commission in the direction where notwithstanding the fact that there are statutory minima attached to the Youth Training Programme, in UK unions have got the freedom to negotiate higher rates which are Trade Union rates applicable. Because one of the worries, I think, about doing a scheme which I take it is what we are talking about here, when one is talking about a youth training or a youth opportunities scheme we are talking about not a scheme designed to produce craftsmen in a very small area for a particular purpose but in fact a scheme to deal with youth unemployment and the problems of school leavers as a whole in the whole economy. Therefore, I think one of the worries that the Trade Unions have expressed and which have to some extent been recognised and met I think by the Manpower Services Commission, is that this should not be a cloak for providing cheap labour and therefore substituting for adult employees by using low paid youth employees. I think that the way that the scheme is beginning to work now in the UK with strong trade union involvement, in fact, the situation is much improved. But in any case, as I say as far as I am concerned, I urge the Government to go back to the proposals I put to them in 1981 and give reconsideration to them. I will not be supporting this.

HON MAJOR R J PELIZA:

Mr Speaker, I would just like to say one thing, if I may, and it is really on a point of my Honourable Friend Mr Bossano has just mentioned. I always listen to him with great attention because his contributions to this House are very valuable. On this occasion, however, I think it escapes him that something is better than nothing. I think it is logic, isn't it, that if we have 40 young people in Gibraltar for whom there is no employment, I think it is in the interest of those 40 young people to find some occupation. It is not total waste of time since they are acquiring a skill which maybe to their own particular benefit if not at present in the future, things could change, perhaps things may turn for the better. Those individuals are acquiring a skill which they will possess forever. It is valuable.

HON J BOSSANO:

Does he know what are the skills they are acquiring? As far as I understand, and this can be confirmed by the Government, they are taught the rudiments of being a painter, a mason, a carpenter, four trades in a year. What degree of skill does he think they acquire in one year covering the rudiments of four different construction trades. Why do we have four-year apprentices?

HON MAJOR R J PELIZA:

You are certainly not going to get architects or anything like that. We are not expecting fully trained tradesmen to come out of that, no. It is the beginning of the skills. It might open avenues for them but above all it gives them some discipline during those 12 months which I think goes to the benefit of the character of the individual. I don't think it is fair to say that it is a total waste of time and therefore whilst I appreciate that this is by no means the ideal, we do not live in the ideal world, the problem is the scourge of the earth at the moment, wherever one goes one hears that this problem is there. It is not going to go away by saying that this little scheme is no good because you are going to leave nothing in its place and therefore I think to accept defeatism in that way rather than those what I know are crumbs falling from the table, that is better than nothing at all. I think that in Gibraltar particularly we have greater limitations than anywhere else so we have asked the Government to do this, they agreed after some difficulties, they have been able to do it, it is proceeding, it is going on, my Honourable Friend is asking for more. Let us see, it is a start and you know what the Chinese say that if you want to walk 1000 miles you must take the first step. Well, this may well be the first step. Mr Speaker, therefore, in the circumstances, I think that the suggestion by my Honourable Friend is a good one and I find difficulty in going totally against something which is better than nothing. I just don't understand the point.

HON W T SCOTT:

Mr Speaker, I think I might start off my summing up with the Honourable Mr Joe Bossano, obviously. I cannot accept his comment that there should be an undertaking by Government after training for a job.

HON J BOSSANO:

If the Honourable Mover will give way, I have not said that there should be an undertaking from the Government. What I have said, to put the record straight and be absolutely factual, is that the only argument in defence of the training scheme which we are welcoming in this House, is the fact that it can substitute for the first year of an apprenticeship. And the only people who are giving apprenticeships in the construction trade is the Gibraltar Government, who is taking in 12 apprentices a year. So the only way the people who come out of

the Construction Training Centre could usefully use the knowledge they have obtained which substitutes for the first year of apprenticeship, is by taking one of the 12 jobs that would be available at the expense of somebody else that leaves school next year. That is all I have said, I have not said the Government should do it, I am saying that that is the only positive argument in its favour.

HON W T SCOTT:

I am grateful for that, Mr Speaker, because surely the Honourable Member will accept that it is better for the individual one year after he has left school and not being able to find a job as arranged, to have undertaken training of this type enhancing, perhaps, whatever little opportunity for employment he might have had a year before and of course it is not Utopian, of course it isn't but what we are trying to do here is urging Government to progress that system because if the Honourable Member will remember, in November of 1960 when I introduced my motion, my motion was not on industrial training it was amended to read industrial training, my motion on apprenticeship, if the Honourable Member will remember. The second one, Mr Speaker, that he made a remark on was on the expression Youth Opportunities Programme and he assimilated that and equated it to the system as used to be run in the United Kingdom on the same lines. But that does not necessarily mean because I have not mentioned it yet, it means a system providing opportunities for the youth of Gibraltar. That is what it means and it is termed in that manner. The same as the system in the United Kingdom, the YMP, was adapted to form the better system of a youth training scheme, surely, in retrospect and with hindsight, we can also adapt the system that they have there to better suit us in our small community. Mr Speaker, the Honourable Minister for Labour did pass a number of remarks that require my mentioning them. The first one that he said was that he wanted to introduce the Youth Industrial Training Scheme slowly and he wanted to wait for the results of that before he passed on to the next stage. I suggest to the Minister that perhaps we would want him to move a little bit quicker and that is precisely why that motion has been introduced now and not this time last year or the year before. The fact of the matter is that it is being introduced now. I was very glad to hear one very important point that he made and I think this illustrates to me somewhat of a change of policy and that is bringing youth, industrial training and education a little bit closer together than they have been working over the last few years in Gibraltar. I think it is very necessary for Gibraltar to have that, particularly if we are going to look at an era in the not too distant future of running a successful technical college. Incidentally, Mr Speaker, he also mentioned that in the United Kingdom the Youth Opportunities Programme at the time was restricted to youths of 18 or less, no mention was made by me of an age restriction either. I think, Mr Speaker, I have dealt with the point that the Honourable Member made except for one. When in talking about YOP, he did say that there would be difficulty with a private employer in the day release of a young man or woman to the future Technical College. Well, the YOP in fact,

could prescribe precisely that by the introduction of a payment of part of the wage of the individual, a condition of Government paying that could well be that that student should be released.

HON MAJOR F J DELLIPIANI:

That is what I said, that in the scheme I wanted to introduce those kinds of elements. It is not because I doubted the employers, it is because I wanted to combine training and work experience which the scheme in UK does not provide, it only provides a work experience.

HON W T SCOTT:

Mr Speaker, that is precisely why I said earlier on that we should adapt existing schemes or ex-schemes in the United Kingdom to best suit us. Mr Speaker, I beg to move.

Mr Speaker then put the question in the terms of the Honourable W T Scott's motion and on a vote being taken the following Members voted in favour:

Mr Speaker then put the question in the terms of the Hon W T Scott's motion, as amended, and on a vote being taken the following Hon 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 Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon W T Scott's motion, as amended, was accordingly passed.

HON P J ISOLA:

Mr Speaker, before my Hon and Gallant Friend moves his motion, does not the Chair think it is an appropriate time to adjourn. It is a quarter to eight, other Members in this House have

commitments to attend to, on this side of the House, and I think that to start a motion by my Honourable and Gallant Friend at quarter to eight would seem to me, frankly, putting undue pressure on us. We have had a lengthy day, we have got tomorrow and we have got Monday.

MR SPEAKER:

It was my intention to call the motion to be moved by the Honourable and Gallant Major Peliza and then recess. I don't know what the feelings of the House are.

HON CHIEF MINISTER:

I think, Mr Speaker, hopefully, we should do most of the work pending tomorrow. Tomorrow is a short day for me as I have to finish at about 5.30 or 5.45 and I thought perhaps we could deal with this, or part of this motion now for another half an hour or so and carry on tomorrow and any progress made now may be helpful. After all, I remember the days of the Intergration Government when we stayed here until about 11 o'clock at night...

HON P J ISOLA:

Mr Speaker, we have heard that one before. During that time we did start at 5 o'clock in the afternoon or 2.30 in the afternoon.

MR SPEAKER:

With respect, sometimes we used to work from 10.30 in the morning till about 10.30 in the evening.

HON P J ISOLA:

Very rarely, Mr Speaker, and frankly on the question of continuity, the motion that my Honourable and Gallant Friend is now moving, as indeed like all other motions, is of some importance. There are commitments on the part of Members of this House, tomorrow we will be expected to stop at 5.30.

HON CHIEF MINISTER:

No, I have not said that.

HON P J ISOLA:

I am not objecting to it but what we are requesting on this side of the House is that we should recess now, we have had a lengthy day and I think that it is possibly unfair on my Honourable and Gallant Friend to ask him to move a motion and we shall have to stop during the middle of it.

MR SPEAKER:

I was hoping that the Honourable and Gallant Major Peliza would move the motion at least and then we could recess.

HON MAJOR R J PELIZA:

I think it is not in the interest of the House that we should start on the motion now and then recess.

HON P J ISOLA:

Mr Speaker, it is extremely difficult for us on this side of the House to plan our days and our engagements. We are normally sitting till seven, this seems to be the practice, and suddenly one night we are told we are going to carry on until 9 o'clock.

MR SPEAKER:

I must disagree with your statement because we have been sitting until 7.30 and 7.45 and at the last meeting we were sitting till 8.15. Anyway, I would like to have the Chief Minister's view on this.

HON CHIEF MINISTER:

It is no use arguing about half an hour or three quarters of an hour. I think we took the whole of the first day on the Landlords and Tenants Ordinance and that is why we are a bit behind schedule. I should have thought that everybody would have liked to have finished by the end of the week but if that is not to be it does not matter, we might as well recess. There is one thing that I would like to say in case there is any misunderstanding: For a number of reasons we shall have to finish the business of the House on Monday, whatever happens, even if we have to sit late, because we have a number of other things to deal with.

The House recessed at 7.45 pm.

FRIDAY THE 9TH DECEMBER 1983

HON M K FEATHERSTONE:

Yesterday, in the Supplementary Estimates, I was asked a question about the brochure that is being made for Queensway and who provided the graphic works for it, and I said it was the Public Works Department. In actual fact it has been a joint effort between the Public Works Department and a local firm, The Moving Hand Studio.

MR SPEAKER:

I will perhaps take this opportunity to say something I should have said yesterday evening. I have received two notices of the intention of Members to raise matters on the adjournment. One is from Mr Bossano who wishes to raise a matter referring to the manner in which the UK Departments are depriving some of their employees from the right to voluntary redundancy, and another one to be raised by the Honourable and Learned

the Leader of the Opposition which refers to matters related to the unsatisfactory answer given to Question No.487 by the Chief Minister regarding the advertising policy of the Government.

HON MAJOR R J PELIZA:

Mr Speaker, I beg to move: "That this House holds the Government responsible for not taking sufficient effective action to prevent the tourist industry from suffering a very serious decline during its term of office so far." Mr Speaker, the motion, one might say, speaks for itself and in normal circumstances with a Government that would face reality there would really be no need for me to make a case to establish the facts that are stated in the motion. The first one, Mr Speaker, is that the Government is responsible for tourism. There is no question about it and I will say why. I think that the Government has not taken sufficient effective action to prevent the tourist trade from suffering a very severe decline so I have got to establish as well that they have not taken sufficient effective action and that the trade is suffering from severe decline and that that this happened at least, it probably started before, but certainly it continued to decline during the term of office so far. I say so far, Mr Speaker, because with St Nicolas around we never know, there might be the expected miracle before the Government really go to the polls again but that, perhaps, is hoping for too much. Let us see, Mr Speaker, how we can establish that the Government is responsible for the tourist trade. Unquestionably, we have a Tourist Department in Gibraltar headed by a Minister whose objective is to try and promote tourism for Gibraltar. If that amount of tourism is not generated then he must question himself whether he is not responsible for what is happening, I doubt very much whether he is going to question that, that he is responsible for the success or failure, generally, of tourism in Gibraltar, he must accept that. If he does not accept that then I don't think he should be holding that position at all. In fact, that position should not exist because it is a total waste of time. But to prove that he is, Mr Speaker, he has a Vote. He has a Vote under the Estimates of Gibraltar which in this year 1983/84 is £650,000. Not a lot of money bearing in mind that the total estimates for Gibraltar is £50million, and also bearing in mind that this is one of the industries in Gibraltar which should generate income for Gibraltar. Therefore, if one looks at what we want to have - services, good hospitals, good schools, all the other social services in Gibraltar - one must realise that one must make the money to be able to support them. And if one has to decide where we are going to put the money, there must be a sense of proportion of how much you put into, say, social services and how much you are going to put into the industries that are going to produce the money that are going to provide for the social services. In that respect, Mr Speaker, the Government must be responsible because ultimately they are responsible for the economy of Gibraltar. And this, as we know, is said to be the second pillar of our economy. The proof that this is important is that rather late the Chief Minister has come forward and seems to decide that, after all,

he is going to do something about it and the magnificent step he takes is to call on his Administrative Secretary to go around and see how the whole thing is working. Is it possible that he cannot rely on the Minister for Tourism to tell him what are the necessary things for tourism in Gibraltar that he has to call on his Administrative Secretary after four years in Government, Mr Speaker, not mentioning the other 40 that go before that. I am surprised, Mr Speaker, at the situation. It is incredible and look at the answer that he gave to my question, Mr Speaker, he is not even a co-ordinator, as the Minister says, he is not even a co-ordinator, he is an inquisitor, he is going round to find out what is going wrong, Mr Speaker. That is what he said. "The role of the Administrative Secretary in this matter is to look into the various aspects of tourism, and to report to me on ways in which effect might be given to the Government's declared policy of devoting special attention to the sector of the economy". He has got a Minister and he does not call on the Minister to tell him what must be done. He calls on his Administrative Secretary to go round. I would have thought that the Minister would have that at his fingertips. No tourism can function, Mr Speaker, unless there is proper co-ordination in every department in Government, from Education downwards, because they all play a part in tourism. Because once the tourist moves into an area, a country, Gibraltar in this case, he becomes almost another inhabitant of the place. In fact, he is more than an ordinary inhabitant, he must be given special attention as a guest that you would like to see come again. Every department of Government is involved, that is where co-ordination comes in and there hasn't been any co-ordination. I know there hasn't been co-ordination because of the questions that I have been asking here. How many times have I brought the question of cleanliness? What did I say about the Upper Rock of going for a walk and not being able to look down because the bushes have overgrown. What was the reply of the Minister for Public Works? "I have not got the men to do that now". And I don't believe he has found them yet. That is one of the attractions of Gibraltar, that is a simple one, of course, there are many more important ones, but I am just trying to produce one simple example. What about the beaches, when are we going to start? The reply was "No, the people go to Spain, why should we open the beaches at this time?" How can you expect tourists to come to Gibraltar if that is the situation. Mr Speaker, it is not that I am bringing this to light now, it is not something that has suddenly arisen because the elections are coming and I am producing this motion in the House. I think it is because of the elections that the Chief Minister is taking a particular interest at the last moment, that is because of the elections, Mr Speaker, the same as you see everybody cleaning Gibraltar now, that is because of the elections Mr Speaker. And we will see a number of photographs, because I have already seen them. I have seen in the Public Works going through the motions and the official photographer there taking the photographs. So very soon we are going to see in the press in Gibraltar all the work that the Government is doing in cleaning Gibraltar. I suggest to the Chief Minister that if they want to keep

Gibraltar clean and improve the situation, they should call an election much more often, perhaps once a year, Mr Speaker. If you are talking about elections, Mr Speaker, that is the true position of the elections. I am not doing it because of the elections because I have been bringing this question forward time and time again, right through the last four years and before. Mr Speaker, has there been a decline? I think we have to accept and I think the Government will accept that they are responsible for tourism in Gibraltar. I don't think that the Minister will give any encouragement to the tourist trade, inject any confidence in the tourist trade if he says that the Minister for Tourism is not responsible for tourism in Gibraltar. That would be the end, Mr Speaker, if he said that. He might as well pack up and the Government give up the question of tourism and give it to somebody else to do it. Perhaps create a board of the hoteliers and all the other parties interested, the tour operators, give them the money and let them do it. That would be much better, Mr Speaker, and wash their hands of the whole thing. Or let's then say: "Let us forget about tourism, we are not interested in tourism", otherwise it is just a waste of money and time. I think they have got to accept that they are responsible. They have got to accept that there has been a decline and I am going to prove this. Tour operators, Mr Speaker, going back to September, 1980. The Chronicle of the 11 September Mr Speaker, Mr McNally: Exchange Travel boss, McNally, told the Chronicle that his winter bookings are currently 34% down when compared with the same time last year adding that only a determined effort to cash in on late bookings through an extensive advertising campaign in about two months time might improve matters. Nigel Thompson Cadogan Travel says his bookings are registering a 20% down trend and he was of the opinion that the percentages will probably increase. Gibraltar Hotel Association; Mr David Okes-Voysey said yesterday that there has been a 15.2% reduction in occupancy figures on last year, January to August and as far as winter is concerned none of the hotels made a profit last year and all indications are that losses are going to be even heavier this year. This Mr Speaker, is 1980. It has taken 4 years for the Chief Minister to ask the Administrative Secretary to find out what is going wrong with tourism. What he should have done, of course, is got hold of his Minister for Tourism and told him: "Look, you have 12 months to get this right and if you don't we shall have to look for somebody else to do it". This is the position of a Chief Minister who is really running a Government, Mr Speaker, and who wants to produce results, not wait for the elections to come and then put a little lipstick and eyelashes, false eyelashes, to his efforts, Mr Speaker. That is not the only one, Mr Speaker. The Chronicle of September 20th said: "A spokesman for the hotels said yesterday they acquainted the Minister of the problems facing the hotel and tourist industry and the exceedingly bleak prospects for the future. The Minister was appraised that hotel tourism had declined a 15% and that hotels anticipated being less than half full, a decline of some 25% to 35%, and unless early Government action was taken there would be a continual decrease of business next summer. This is Saturday December 20th 1980. Mr Speaker, the Gibraltar Licenced Victuallers Association, Chronicle, 23rd

August, 1982: "The Committee feels that under present conditions tourism potential is not fully understood nor is it being exploited, only simply allowed to decline when in real terms it is one of the few areas in which we may contribute to the local economy and minimise employment problems". Sadly it contains an incredible indictment of poor facilities and products which are knowingly being allowed to exist for several years. This is common knowledge, Mr Speaker, you only have to walk up Main Street and see the state of the surface of Main Street, holes and pot holes when what we should have is the equivalent of an open area carpet with good tiles and that would make the whole place look quite differently. But what do we get? The Minister for Public Works says: "Yes, yes we are going to do this, oh, yes, we are going to do it". The latest is that I think after the elections it is going to happen. Let us hope so, but we shall have to wait and see. This has been going on for years now, Mr Speaker. Look around, wherever you go, it is not just Main Street, it is wherever you go. But at least I would have thought that as far as Main Street is concerned a special effort would have been made. The complacency is such that they could not care less about the amount of criticism made, they could just not care less, it is water off a duck's back. The Minister admits the figures, it is in the Survey. I quote the Hotel Association with regard to figures. It is a serious reply because it is not just that we have gone down here, it is that we have gone down and we have not captured the increase in the amount of tourism that has been generated the world over and certainly in Britain from where we get most of our tourists. It is not just that we have lost business but that we have not gained what was going up everywhere else in the world so that is why I say it is a serious decline. Mr Speaker, according to the Hotel Association, and I have no reason to believe this is not so, the tourist arrivals of 1979 were 35,395, in 1980 33,139 and in 1981 24,481 and then in 1982 25,500. The figures that I have quoted are from the official statement from the Hotel Association which is a Study Paper for the promotion for the tourism to Gibraltar. I don't think it has got a date, but if it has a date, for the sake of the records we might as well put it down. I can't find the date but the Minister can have a look at it if he does not believe me. During the same period Mr Speaker in 1979 the inclusive tour market in the United Kingdom in 1979 was 5.08, in 1980 it was 6.26 and in 1981 it was 7 million people, an increase of almost a million from 1979 to 1981 - a decrease in Gibraltar. The Times, Thursday 8th December, 1983, on page 3, Social Trends in Britain, says: "Fewer holidays were taken last year but more of them were spent abroad, up from 30 million to 40 million". Another million up. Now we are talking about 40 million, 40, in 1981 it was, according to this figure, 7 million, in 1983 it is 14 million.

What have we got in Gibraltar Mr Speaker, how has it gone up in Gibraltar? Doesn't the Minister believe that there must be something radically wrong in that we cannot get .0001 of that market more than we were getting. I think that if I had been in his place and I had realised that after two years I could not make anything out of this, I would have thought it is time somebody else came in and took my place, as a matter of personal pride. If Gibraltar depends so much on this I should allow somebody else to handle this, perhaps Mr Canepa who is so effective in other quarters, or the Chief Minister himself who seems to draw the rabbit out of a hat like the generating station machines that were going to be installed in two months. But what I cannot understand, and I really mean this honestly and truthfully, I cannot understand how a person who sees that he cannot make any success of the venture that he has undertaken, that he should persist. It would be alright if he was just damaging himself and wasting his time but when it affects the whole economy of Gibraltar that is a different matter. Of course, there are other people who must carry the same responsibility too, which is the Chief Minister for allowing that to happen and realising it at the end of the term of office. He must be blind, Mr Speaker. Mr Speaker, we have a new operator coming to Gibraltar. I do not know what kind of reception he was given or what undertaking has been given. I think we have got to try and make the best of the new operator. But what surprises me is that no sooner have we got a new operator that something goes wrong and we have cancellations of flights. And what even surprises me more is that the Minister for Tourism could not give me a full comprehensive answer. Mr Speaker, the Minister said in answer that he understood that the operator could not get the aircraft to fly. I would have thought that on such an important matter he would have been able to give a definite categorical answer. No, he could not get it because of a, b, c, d, e, f, g, whatever it might be. If that is the way he tackles everything that is happening, it is not surprising Mr Speaker. And then he goes on in his answer that he hopes that in the new year it will be alright. A Minister coming to this House answering a question in such vague terms on a matter of tremendous interest. I would have thought he would have bent backwards to make sure that Intasun comes here and find out what the difficulties are and how he can help. And so, Mr Speaker, we find that even where we have an operator which is one of the biggest in Britain now and I know that if they have booked 400 beds and I know, I don't know if the Minister has gone round asking this but I know that people are worried because they have booked 400 beds and if they don't get them they shall be in trouble. That is the situation today and the fact that the planes are not coming in at this moment obviously worries the trade and it is bound to make people nervous. That is the second point I was going

to try and establish, the decline, and I think again I doubt whether the Minister cannot accept that there has been a decline and that it is a serious decline in view of the fact that trade generally has been on the way up. We say that sufficient action has not been taken. I suppose that the Minister must have taken action, he has added a bit, for instance, to the budget. But is it all that much that he has added to the budget, Mr Speaker? I just looked at it because it rather surprised me that in 1981/82, Mr Speaker, the Government spent £557,000, actual expenditure. In 1982/83, in the revised expenditure, the Government spent £669,000 and now in the estimates of 1983/84 we have £653,000, less than last year, Mr Speaker, not more, less. So in terms of money, Mr Speaker, and if we take into account inflation, of course, it is even far less than that. So in terms of money, Mr Speaker, one cannot say that they have taken effective action to try and prevent that. And remember that the total budget is £50million, which is up by £3million on the revised estimates of 1982/83. Where, therefore, could the Government have taken some action? If the marketing that the Government have been carrying out has not produced results, not for 1 or for 2 or for 3 or for even 4 years, it goes beyond that, then I would have thought that something must be wrong with the marketing, something radically wrong. Why is it that somehow, something was done to try and see where the failure is. Has a thorough study been made, and I don't mean more experts from the UK, I think a lot of money goes to waste there. When you look at those reports you say, "Well that is commonsense, it is what I thought it was but it is beautifully done in a book that thick and you pay £25,000 for it". We all know that most of these reports are just eye wash, justification in most cases to try and be able to sell whatever they want. That is what it is, just to justify an action in most cases. But, by and large, at the end of the day it is the man behind the counter who has the feel of what is going wrong and puts it right, it is almost instinctive, this is why some people are successful and others are not no matter how many reports you give to one or you give to the other, you find one is successful and the other one fails. Like a good football player, one can play and kick the ball 100 years and he will never be a good football player and the other fellow almost comes out of the cradle, kicks the ball and you can see that he knows how to kick the ball and that is it. And this is where I say the Minister has failed and he should recognise it because he may have ability for other things, maybe he would be excellent at Public Works, I don't know, or Education, but certainly not Tourism, or perhaps Opposition, that would be excellent. So, Mr Speaker, that requires changing, I have said it before here and it is confirmed by a book I have here on the business of tourism. When carrying out surveys it is very important to allow the person who gives the answer to do it anonymously

and without being in the presence of anybody. If you have a nice girl who approaches you at the end of your tour in Gibraltar at the airport and she asks you: "Did you enjoy Gibraltar?". Who is the gentleman who says "I didn't enjoy Gibraltar". Of course, he says "Yes, lovely place, I am coming again". What would the Minister say? Oh, he may laugh but that is a fact. I know it is so absurd that it is ridiculous but, in fact, it is the truth, it is the truth. I have said it before. If you want to carry out a survey, do it in such a manner that at least, you expect them to give you the truth and the whole truth and nothing but the truth. So, Mr Speaker, that is the first thing I would do, to find out where we are going wrong. You get 42%; the previous survey, of people coming back and I think it is 37% of people who intend to come back on this survey.

HON H J ZAMMITT:

46%.

HON MAJOR R J PELIZA:

46%. Right, well, if it is 46% this time and it was 42% last time, I would have thought that just with the people who say that they are coming back we would be thriving, on the top of the world. If you recurrently have people who say they are going to come back, 42%, it would be about 500% today. If you get such returns from your survey and, in fact, it is not producing the results that you would expect it to produce. Something must be wrong with the survey, that is commonsense. But, no, we go on doing exactly the same thing. Therefore, the survey will never help us to steer the ship in the right direction, never. Mr Speaker, the market for tourism is based on the needs of the consumer and the attraction that the resort can give. When they coincide, then the consumer comes because that is the attraction that brings him provided, of course, that he can afford it. The principal markets for tourism are the seaside resorts, sun, sea and sand. We all know that, the identity of that is almost everywhere and we find that in that respect tourism is very competitive and we know that Spain, particularly, can offer very good holidays at very low prices. I think one then comes to the conclusion that unless one can meet those prices it is going to be very difficult to compete with Spain. The Minister accepts that, I am sure he does. We all accept that because of the price differential it is going to be very difficult to attract the tourists. So, we have to look for something else that Spain has not got and that we have and that because the number of tourists that we have to attract is so small that we may just find that category of tourists that will make the system

bookings for Gibraltar which will cover our market adequately. I think the historical background of Gibraltar is of great interest to the British public, there is no question about it but that we have left behind. Now, I am glad in the tourist survey, we are putting a question there about the historical background, what do they think of it. But we have to go a long way to do this, a long way. But, unfortunately, we always go in the reverse because even if we market Gibraltar with all its historical background, it is no good coming here and finding that the place looks like a cheap holiday resort, because all the effect of the publicity goes by the wayside and I think another interesting matter is that a lot of people come here by personal recommendation so it shows the importance of personal recommendation. Apart from that the tourist agents do sell it. If the tourist agent goes back and says: "I have been there, it is a wonderful historical place, it looks historical, he can sell that. What you cannot do is suggest to him, "Yes, it is a lovely historical place", bring him here, he goes back and he says: "It is almost worse than one of the cheapest holiday resorts in Britain. I cannot say that this is a historical place. The client that comes to me every year for me to suggest where he goes for his holiday will never look at me again". One has to be honest, totally honest and sincere in the publicity because at the end of the day it is only if the product is according to what the literature on Gibraltar says that the people are going to start coming back and the word is going to start going round and tourism will grow. You walk in through Casemates, what do you see? Barriers, traffic barriers all twisted tubes with cheap advertisements there. Does that give you the impression of walking into a historical place? Of course not. Remove that, put wooden posts there, blemish them if necessary to make them look old and immediately as you come into Main Street you will notice the difference. Then go round and tell the shops - the Government has the power to do it: "We are now going to lay down the kind of signs that we are going to have in Gibraltar. No plastic signs in Gibraltar, do away with plastic signs. In no time the atmosphere of Gibraltar will start looking historical. Then you can start putting photographs of that in your pamphlets. Bring in the museum, we have a lot of history here to develop and exploit. It is not done, Mr Speaker. That is the kind of marketing that Gibraltar needs, Mr Speaker. To sit and wait for things to happen, it just will not happen. It needs a co-ordinated effort from all concerned. Mr Speaker, I think that I have established that sufficient effective action has not been taken to make it a success. But I would like to go a little further than that, Mr Speaker, because unless we can bring in all the people concerned in the trade it will never be a success. That is why I pressed very hard for the Advisory Board and it took me months before the

Minister agreed. But he hasn't really made full use of it. I asked a question about what had been discussed at the last meeting and the reply was: "Something to do with taxis and to do with tours". I have not heard him say any big thing that has been discussed there such as we are discussing here today. I think the hoteliers and others concerned are fed up, they are not really interested any more in the Advisory Board as far as I can gather. Mr Speaker, it is a great pity, we have undoubtedly a desire from all people concerned, and including the population, I think the Gibraltar population likes to see tourists, it is good socially, new faces, in fact, it is one of the things that keeps us in touch with the outside world and perhaps the reason why the Gibraltarians are not insular notwithstanding the long siege of 20 years is because somehow we have been in touch with the outside world, and not only through television. So, Mr Speaker, this Advisory Board who themselves have a personal pecuniary stake in the success of tourism, what better willing workers have you got than them. Why not use them? I think the essence of a good executive is getting other people to do everything that he would like to do. This is what the Minister must try and do. Try and get everybody in that Board to do the things that he would like to do himself. That would be the art of leading tourism in Gibraltar, unfortunately, he has not done it. Finally, Mr Speaker, because I have just come from there, I have just come from the World Trade Market. Every nation both big and small was represented there. The big ones have got huge stands by region, all the nations by region, not just national but by region. I went to see if I could find Gibraltar but Gibraltar was not there. Barbados, Trinidad, the whole lot, you name them, they were there. Gibraltar just was not there. I thought perhaps that it would cost a lot of money so I asked. In fact, I asked the Cayman Islands who are doing very well with tourism and they are very willing to help, in fact. They spent a lot of money of course, like everything else. Coca-Cola sells because of the advertisements, of course, but the drink must be good as well, obviously. I am not just saying spend money on advertising. Once you spend the money you have got to have the product that will satisfy the buyer, of course. But what I say is that they spend a lot of money in advertising, they spend about £1m. This produces for them, Cayman Islands, £30million. I asked how much a stand would cost. The one the Cayman Islands had and they had bought all the things that they have there, and they had a rather bigish one, a double stand, with everything they bought, cost them £10,000. I was told that a smaller one would be about £2,000/£3,000. The person who runs this is a great friend of Gibraltar. The World Trade Market Council is a prestigious body and this is the magazine which is called Travel News. The Council is a prestigious body of people involved in travel industry. Lord Boyd-Carpenter is the

President of the Council and Gibraltar has not got a better friend. Mr Speaker, what a great pity that we were not there. What a great pity that we have not established a closer relationship with this man who has been so helpful to Gibraltar. We all know, he has always been. Mr Speaker, you go further along this Council and you find that the Fair was opened by Mr Tebbit who is now the Minister for Trade. And he says: "The economic importance of tourism in the UK is fully recognised by the Government". But this even more interesting: "The World Trade Market has established itself as a force to be reckoned with in the travel industry. The tourist offices are the main object of the event while the exhibition offers fantastic opportunities for tour operators and others involved in this industry, it is the tourist offices which can benefit most by presenting a high profile to trade and consumers". Gibraltar was not there at a time when we need it most. No wonder the Chief Minister has sent the Administrative Secretary round to find out. But, surely, these are the matters that the Minister should be aware of. There they were, hundreds of tour operators from all over the world, not just British and travel agents, all going round. They have a section for a number of days which is entirely for the tourist trade and then they open up for the people, generally, at Olympia. And of course, thousands go there, because now is the time when they are buying their holidays. Miss Cayman was there on the stand, a very beautiful girl, of course, and I said perhaps I may go to the Cayman Islands one day, I would be delighted to see the islands. Gibraltar is expensive, perhaps it is by all standards but it is not all that expensive. That day The Times produced the cost of holiday living index which shows how much you pay for different things in different places. If the Minister has not got one I have got a spare one for him. I tried to find out where Gibraltar would fit in in this index because, obviously, Gibraltar does not appear there, and, in fact, I am glad to say that it falls in between Spain and Madeira, I will give you the figures because it is rather interesting. The point is that if falls in between the two. Whilst in Spain they spend about £161 and in Madeira £185, in Gibraltar according to the figures that I have, it would be £177.60, that is according to the figures that I have. We are not all that much out according to those figures. I have got the figures of hotels, the cost of a good hotel in the Costa Del Sol and it is almost double in Gibraltar when you come to hotels, not tours, but going on your own. This is why we have to look for that specialised kind of tourist who is interested in the sand the sea and the sun but to whom the historical background will have a special appeal. One of the good things that Gibraltar can sell is that we have not been spoilt by tourism. The local population is sufficiently large to almost make the tourists who come here disappear. I think another good thing

about the Gibraltarian is that the Gibraltarian knows how to smile and this is very important. We have to our credit lots of good things that we should try and develop. Although the price is a matter of importance, I think that it is not by any means the thing that will stop tourism from developing in Gibraltar. You have it with all kinds of wear and goods. There are cheap sources and expensive sources, cheap television and expensive television, there is a cheap and expensive of everything. But when the quality gives you value for money, this is what we have to do. We have got to give value for money which we do not think we are giving now. If we can produce the product which gives value for money to the person who comes to Gibraltar I think we will succeed and price should not be a stumbling block. I know the Minister has this idea that until the frontier opens we will not be able to succeed. Even if the frontier opens, for as long as the differential exists it is very difficult to attract people purely on the basis of sand, sea and sun. I think on that basis it is going to be very difficult to attract them in any case. Another important point is that when a tourist goes abroad he is in the right frame of mind to spend money and buy things. Gibraltar is expensive in that respect. Things that you get here now are almost cheaper in Britain and something has to be done about this. I have said it time and time again that one of the important things is not to charge duty at entry but to base it on some kind of sales tax, VAT, call it what you like, which is paid for when the thing is purchased. That, automatically, will reduce the price and also which can be paid back to the tourist as he or she leaves Gibraltar. That, to my mind, will be a tremendous encouragement because unless we do something like that the motive of coming to Gibraltar will disappear. Well, not disappear, it is just not there. Mr Speaker, I think I have gone long enough to establish my point. I just want to say to finish up that there is no question about it, the Government is responsible for tourism in Gibraltar. There has been a serious decline in Gibraltar and there is no question about it that the Government has not done enough so far to prevent that from happening because if they had there would not have been that tourist decline.

Mr Speaker then proposed the question in the terms of the motion moved by the Honourable and Gallant Major R J Peliza.

HON H J ZAMMITT:

Mr Speaker, I want to be as sincere as the Honourable Member opposite has said he has attempted to be. I will attempt to be calm, cool and collected. I will not become as emotional as he has been, and I am sure Mr Speaker, that I will be able to convince the Honourable Member that he is completely and utterly mistaken. I am delighted and I am very grateful to

the Honourable and Gallant Major Peliza for having raised this motion in the House because it does show his concern for tourism not just over the last four years during which he has been shadowing tourism but even during the days when he was Chief Minister of Gibraltar the continuous importance that he gave tourism. It is surprising, Mr Speaker, and he blames the Chief Minister for doing everything now in the closing days of a Government, it is surprising that for the first time since 1969 to this day, that the Honourable and Gallant Major Peliza, particularly since 1980 to this day, it is the first time that a substantial motion on tourism has been brought. The decline has not happened in the last 6 months or in the last 3 months but according to him, certainly over the last 4 years. All that we have had, Mr Speaker, from the Honourable and Gallant Major Peliza was all of two motions on the adjournment for one of which I was not here having suffered some medical upset and my Honourable Friend Mr Brian Perez had to cover and answer the Honourable and Gallant Major on the 26th October, 1981, and then, again, on the 6th July 1982, a second motion on the adjournment. Look at the importance that the Honourable and Gallant Major Peliza has given to the decline of tourism throughout the 4 years that he has had as much or should I say half of the responsibility that I have to accept for the failure of tourism. The person shadowing tourism has done absolutely nothing and waited until the last day, virtually, to bring a motion to the House of Assembly to try and make all kinds of insinuations. Mr Speaker, he talked about the general elections. It is purely, and I will prove this, I am going to be factual, Mr Speaker, absolutely factual, because I am going to prove that the Honourable and Gallant Major Peliza cares two hoots about tourism and has cared two hoots about tourism from his past record, and I will substantiate this with fact not from what I have heard or someone told me, but with fact. Mr Speaker, I became acting Minister for Tourism round about April, 1980, shortly after this Government came into office and as a result of the unfortunate accident suffered by the Honourable Isaac Abecasis and I had been Minister for Tourism certainly since September 1982. Since 1981, to this day, and I am saying that because the motion talks of this Government, that is 1980 to the present date, the Honourable and Gallant Major Peliza has raised 71 questions on tourism, 71. But let us look now and see how many questions he asked on tourism between 1976 and 1980. The answer is nil. Let us look at how many questions he raised between 1972 and 1976 - Nil. Let us go back even before that, Mr Speaker, and let us find out why should he have this attitude towards tourism. Mr Speaker, by looking at Hansard, when the Honourable and Gallant Major Peliza was Chief Minister of Gibraltar, the then, and I say this, Mr Speaker, and I want to be absolutely clear, because one of the things I would like to highlight

with total clarity is the consistency of this Government, that is the 1972-1976-1980 because we have been here now for 12 years, virtually, and even before that the consistency of AACR Government on its theory of tourism as a vital industry towards Gibraltar's economic activity, and I will be able to substantiate Mr Speaker, by referring to Hansard of the 16th March, 1971, where as I say, the Honourable and Gallant Major Peliza was Chief Minister of Gibraltar, as to why he seems now to give tourism all the importance in the world which they certainly did not feel was anywhere near as important as it is now represented to be. Mr Speaker, the Honourable Mr A W Serfaty, in Hansard on page 141 of the 16th March, 1971, said amongst other things: "Shouldn't the Government be very interested in trying to obtain some insurance for the future. Should that dockyard economy through reasons beyond our control come to an end, why doesn't the Minister get on with the job". He was trying to urge the then Government of the Honourable and Gallant Major Peliza to pour something more into tourism. The Honourable Chief Minister at the time said: "The dockyard is Gibraltar's main source of income and as far as this Government is concerned, this is priority No.1". I ask Mr Speaker, what priority, what was the Government of the day pouring into MOD expenditure? What were they investing in? The whole money was put in by the British taxpayer, by MOD spending. There was nothing done by the Gibraltar Government to ensure for the future, particularly on the tourist industry which is no doubt vitally important. But that is what the Chief Minister of the day said at the time. And he went on to say: "This does not mean to say that we ignore tourism, of course not. What we do is that we take tourism in a realistic sense. Mr Speaker, I am now coming to the realistic sense and the Honourable and Gallant Major Peliza has spoken of expenditure. During the time that the Honourable and Gallant Major Peliza was in charge of that unholy alliance which ended in the glory that it did, we found that his Tourist Vote went up by 12.3%, and I will come back to that because I will be able to tell you, Mr Speaker, exactly why it only went up that much. It makes very interesting reading. Let me just give you an instance because I don't want to go through from 1969 to date. This Government that apparently has failed to do anything about tourism, to have neglected tourism and all the rest, between the budget, and the Honourable Member has the figures in front of him, of 1978/79. We were then spending £342,000 on tourism. 1982/83 £673,000. Mr Speaker, to be precise, we have increased our tourist expenditure by 98.8%, virtually 100% in just over 4 years in relation, Mr Speaker, with the expenditure of 1978/79 and of course, I can't say in respect of 1983/84 because we have not yet got that. Mr Speaker, I did omit to say one thing that I should have done very clearly when I stood up originally and that is to say, in fact, I omitted two things Mr Speaker.

One is to say that I hope Members opposite had noted that I had not interrupted the Honourable and Gallant Major once during his intervention, on the contrary I only helped him in giving him figures and I expect equal treatment. Secondly, Mr Speaker, I should have said that one of the things that the motion that Major Peliza has moved in this House has made me understand is the reason why he insists so much on an index. I now understand it totally because if only we had an index 75% of what he says in this House he wouldn't say, Mr Speaker. The Honourable Mr Maurice Xiberras, during the time of the Intergration with Britain Party who subsequently became the Leader of the Opposition, had the same idea on tourism. He said on page 147 of Hansard of 16th March 1971: "Apart from that, this side of the House" - that is, referring to himself talking of course - "has, I think, perhaps taught the other side how to suck eggs. We did not insist so much on the tourist side of this. We said in our manifesto, 'maintain tourists realistically', and then, Mr Speaker, he goes on to say on page 148: "and I think it is very easy for a Minister of Tourism" - talking of course of the Honourable Mr William Isola, who was then the Minister for Tourism - "and I think it is very easy for a Minister of Tourism to start pushing and pushing and pushing without reference to the reality of the situation". He goes on on the same page and he says: "The PA Report will take into account all the circumstances, economic, labour, etc, of Gibraltar because these were, in fact, their terms of reference, not to put tourism up in a cloud and try to imagine all the millions of hotels he would like to see". That is what the Intergration With Britain Party under the very capable leadership of the Honourable and Gallant Major Peliza, referred to. And, Mr Speaker, not only consistency but let me remind the House of what the Honourable Mr Serfaty went on to say and he reminded the Honourable and Gallant Major Peliza as Leader of his Party and as Chief Minister of the day, on page 153 of the same year, talking about the reduction of 224 Squadron and other MOD cuts in Gibraltar, and referred to the dockyard. He said: "I hope it never closes, I hope it never does, but what would happen, we would be left stranded on one foot and that is why I am insisting that we should develop our tourist economy to the greatest possible extent. I am not in favour of low wages, let Mr Xiberras remember this:" Mr Speaker, this present Government who were in opposition had already the foresight, not talking with hindsight, but the foresight to bring to the Government of the day the importance of tourism towards the economic viability of Gibraltar. I am talking of 1971, when none of us here, I think, can say that we knew that the dockyard was going to close. None of us knew yet Mr Serfaty was warning the then Government. Mr Speaker, Mr Xiberras went on to say that that could not happen to us. It could not happen. The Dockyard in Malta closed because Mr Mintoff was responsible.

And then, Mr Speaker, we get the Honourable Chief Minister, the Honourable Major R J Peliza, who after hearing all this about Malta and the economy of Gibraltar and the possibility of the effect on the economy on the closure of the dockyard, stands up and says: "Mr Speaker, I just beg your indulgence for another couple of minutes to try and do away with any alarm that something like what happened to Malta can happen to Gibraltar overnight. We know that for a number of years already the dockyard is committed to Gibraltar. The important thing is, and this is what we have got to realise, that whilst in Malta there was unemployment, very serious unemployment, and even before the dockyard was closed, in Gibraltar, very happily, we have over full employment to a very large degree, that is my first point. My second is that because of those circumstances, even if the dockyard were to close down as a naval repair establishment it could be used in my view, with the support of the British Government for the benefit of Gibraltar as a commercial concern. It is beautifully situated with hundreds of ships going down through the Straits. Perhaps it is over 100 a day and therefore that point of view I think we have a very stable sort of income in Gibraltar, come what may, from the Defence point of view. If one day all the nations decided that they are going to dump their armaments into the sea, and I doubt whether that will happen, although I would hope it happened tomorrow, but I doubt whether it will, and the dockyard ceases to be a necessity, I am sure that from the commercial point of view, it would be the main source of income". That is the Gallant and Honourable Major Peliza as Chief Minister, Mr Speaker. Mr Speaker, thank God we have not got an index. Please, Mr Speaker, permit me to remind the Honourable and Gallant Major Peliza that he can thank his lucky stars that the House of Assembly is unable to furnish me with what he said in 1969 and 1970. I have only got 1971 because I am told, that records were not kept then, what a shame. I have thoroughly enjoyed myself reading through these Hansards, Mr Speaker, to such a degree, that it really is bordering on comedy. Thank God that we are still not live on the air and some people could take notes at home, Mr Speaker. Then we come Mr Speaker to 1976. We then have the Honourable Mr William Isola shadowing tourism.

MR SPEAKER:

I am surprised that you have said that the House cannot supply you with information regarding the meetings of 1970-71 because this is not correct.

HON H J ZAMMITT:

I do apologise, I was carried away, what I cannot find was

the budget of that particular year, Mr Speaker. Mr Speaker, we then find that in the budget session of March, 1976, the Honourable Mr William Isola was shadowing tourism. For consistency's sake I will say that the Honourable forecaster of tourism and the dockyard, the Honourable Mr Serfaty, became Minister for Tourism so we had somebody here who now knew what both tourism was about and was able to forecast the value of tourism in relation to a possible closed dockyard. Mr Isola was very concerned, Mr Speaker, about the expenditure of the Gibraltar Tourist Office in London and he says: "Mr Chairman, there are two matters that concern me. That is, the actual expenditure for the London Office. In 1971/72 it was £7,992. We are now being asked to vote for the London Office the sum of £27,000. Does the Minister think that such an increase is justifiable?" Mr Speaker, I will later prove, because I do not want to put these out of order, that I have been urged, my predecessor Mr Abecasis has been urged and the predecessor to Mr Abecasis, Mr Serfaty, particularly were urged to invest more money. But yet a Member of his own Government, when it comes to the London Tourist Office to which the Honourable and Gallant Major Peliza attaches so much importance, there is inconsistency, certainly amongst Members on his own side, most certainly. Mr Isola went on to say, Sir, on page 517 of the same Hansard: "I am not saying that it is not doing its work, what I am saying is that the cost of the London Office is soaring enormously". Why spend more on tourism, close it down. Why? And then we find, I am not giving way at all to anybody unless it is a point of order.

MR SPEAKER:

Order, Mr Haynes, unless it is a point of order you are not entitled to rise.

HON A J HAYNES:

Yes, it is a point of order.

MR SPEAKER:

Will you explain to me what the point of order is. I am asking you to explain to me what the point of order is.

HON A J HAYNES:

Well, the point of order, Mr Speaker, is that the Minister is inferring that the Honourable Mr William Isola was indicating that tourism should be done away with.

MR SPEAKER:

No that is not a point of order, with due respect. He can infer what he likes and then anyone can rectify.

HON A J HAYNES:

Well, if the Minister's interpretation.....

MR SPEAKER:

No, I am not having it, what you want to raise is not a point of order.

HON H J ZAMMITT:

Mr Speaker, what I am trying to establish is that the sentiments that the Honourable and Gallant Major Peliza has tried to bring to this House in this motion at the end of 1983, almost 4 years after he has been shadowing, which he has not bothered to do before, is inconsistent with his way of thinking about tourism, not only his way, but the way that his party under his leadership dealt with tourism. They were not interested in tourism, they were interested in MOD spending and tourism was nothing. Now, in 1983 at the end of 4 years having been shadowing he comes up with a motion, that is what I have been trying to establish. I have mentioned Major Peliza as Chief Minister, I have mentioned Mr William Isola, I have mentioned Mr Xiberras, and I go back to Mr Xiberras Sir, on page 529 to prove that they really did not consider tourism as important to the economy. He said: "It is a question which I think I asked last year as well because we have got this constantly developing expenditure on tourism and I think the cost effectiveness is of importance". When they were on this side of the House they could not care less. Mr Speaker, we then find 1977. The Honourable and Gallant Major Peliza, was referring to Mr Serfaty and he said, and this is important, Mr Speaker, probably the Honourable Member might like to listen to this with care. I don't know if he has got his hearing aid on. I am blind, Mr Speaker, but he is deaf. I would like to remind him to make sure that he listens to what I have to say. This is on page 213 of Hansard of March 1977. "It will be seen in Hansard time and again that I have concentrated on the importance of the income derived from the services given to United Kingdom employers in Gibraltar that that, in fact, was the most secure income for Gibraltar now this has been proved. But perhaps we are going too far now, if I may say so. I remember when I was being pressed by the present Minister for Development, the Hon Serfaty, that we should give all priority to tourism, everything had to be dedicated to tourism, nothing else really mattered but tourism". Mr Speaker, how can the Honourable Member stand up here at the end of four years as shadow Minister for tourism and try and make a cream cake out of tourism when he himself as shadow Minister has done nothing. And if I am responsible for tourism in Gibraltar, he, Mr Speaker, shares half my responsibility, he gets half my allowance and he has done nothing, nothing at all, Mr Speaker, other than

lolling around in the place he shouldn't be. This is where he should be, not coming here for a quarter of an hour every three years or every three months, laying 5 questions and going away. And, Mr Speaker, I can equally tell you that although I have the number of questions that he has asked let me tell you that in proportion I have had more questions from the Honourable Mr Andrew Haynes, Mr Loddo, Mr William Scott, the Honourable the Leader of the Opposition, and Mr Restano, put together than my own shadow, shame Mr Speaker, so much for tourism. Mr Speaker, not only do I get 71 questions in 4 years, that is including this very meeting we are in today of which 5 of those 71 questions have been answered by the Honourable and Learned Chief Minister, the three on the Administrative Secretary and two on the Gibraltar Tourist Office, I am as incapable, I am as incapable as the other Ministers that he had who lasted 5 months in Housing and God knows what, they were capable, my God they were capable, that is why you lasted 2 years and 10 months. Not only do I get 71 questions, and I have a breakdown but I will not bore the House because Mr Speaker, I have a breakdown of being able to say, for instance, 10 on Tourist Advisory Board, 1 on tourist survey, 5 on Tangier, I can go on, I am not exaggerating; I have got the list there for people to see that I have gone completely into every single question that the Honourable Member has asked on tourism, 71. To an Opposition that comes to this House with 130 or 140 questions, sorry I am exaggerating, well over 100 at every meeting, look at the importance they attach to tourism. And to cap it all, two motions on the adjournment but never, never, a motion like this one that I can stand up and take 10 hours in answering.

HON P J ISOLA:

More than two motions.

HON H J ZAMMITT:

Never on tourism. Not the Honourable and Gallant Major Peliza.

HON P J ISOLA:

Yes.

HON H J ZAMMITT:

No.

MR SPEAKER:

Order, order, you will speak to the Chair.

HON H J ZAMMITT:

And then, Mr Speaker, I find that all we get from him, and this is because I reminded him in the House is, five letters. That is the correspondence that a man living in England,

getting half my allowance, writes to me about the crisis of tourism. Five letters, Mr Speaker, in 4 years. But are they about tourism? No, one was that the pump was out of order in the childrens' pool at Camp Bay, one about the poor ventilation at the old air terminal because they could not open the door upstairs, the other one was about why don't I invite the news media to our advertising campaigns on the GTO presentations. One about the advertising in "The Licensee" and one about tour operator visits to London GTO. That is the work, the strenuous work that my shadow now has the gall to come here and say that this Government has not carried out any effective measure to try and improve tourism. The Honourable Member knows that I think very highly of him as an individual, I think he is a great man, and I do, I do honestly think he is a good person but, my God, when he comes into this House the man is thick, the man is thick. And, Mr Speaker, we know very well the contributions of the Honourable and Gallant Major Peliza so next time he might like to think before he leaps. Mr Speaker, I have got very many more things here pointing out how the Honourable and Gallant Major Peliza and his party relied totally on MOD expenditure. There was nothing else in Gibraltar that mattered, there was no need to expand tourism, there was no need to expand trade other than MOD. But I repeat, what I would like to ask the Honourable and Gallant Major Peliza is what contribution was there from Gibraltar other than rendering the service of the dockyard or air terminal or airport or what have you, what financial investment was the government of the day under Mr Peliza putting in to stand on our own two feet economically. The answer is nil, Mr Speaker. Mr Speaker, over the last 4 years that I have been either acting Minister for Tourism or Minister for Tourism there have been an enormous amount of things done which people like to forget, particularly the Honourable and Gallant Major Peliza. It is not for me to stand up here and try and say that Gibraltar is a gem because it certainly isn't. The streets are dirty, of course they are, but we are doing something about it, and that is what Major Peliza must realise, but because he is not living in Gibraltar he does not know the circumstances. He does not know the circumstances. Let us look Mr Speaker, for instance, at the number of trade promotions and I am saying this because he himself highlights that I should spend more time in England where the market is, pushing at the counter, pushing tourism, hovering around and doing my job, I assume, very badly, in his opinion, but he wants me there.

HON CHIEF MINISTER:

Mr Speaker, I wish to raise a point of order. We have heard Major Peliza for one hour without interfering. When a Member of the Government stands up there are continuous comments and grins from the opposite side. I don't think it is fair. We have had it over and over again. They seem to be doing nothing but grinning and making remarks, low remarks, not enough to be heard by you, but sufficient to distract the speaker. With respect, Mr Speaker, I think this is not in keeping with the dignity of the House.

MR SPEAKER:

I think that Standing Orders are clear on that. I think the person who holds the floor must be entitled to make his contribution without being inhibited or interrupted by other Members of the House. Most certainly if a thing like this happens and I am not aware of it, it is the duty or the responsibility of the speaker to call my attention to it, or any other Member, and the most I can do in this case, is to remind the House of the way the matters should be conducted.

HON H J ZAMMITT:

Thank you Mr Speaker, Mr Speaker, I was talking of trade promotions from which I personally agree we derive a tremendous amount of benefit, we are visited by a tremendous amount of people in the business and people who generate tourism to Gibraltar. I accept that it is possibly one of our greatest ways of being able to put the message of Gibraltar over amongst the selling section of the tourist trade. Mr Speaker, when this Government took over, there were no such things as trade promotions, in 1969/72. In fact, the Gibraltar Tourist Office was situated in a 5th floor and there were issues and arguments between the then colleague and Gallant Flying Major Gache, and Mr William Isola, but today, Mr Speaker, we have increased our trade promotions and, for instance, in 1981/82 we did 13; in 1982/83 19; 1983/84 22. We are increasing, Mr Speaker. We are increasing because this Government accepts totally that the only possible industry for expansion within our control is tourism. We do not have the blinkers of the previous administration, that is to say Members opposite. Let us look at public relations. In 1980/81, we were spending £7,200, 1981/82 we were spending £10,300, 1982/83 £16,500, almost double on public relations, Mr Speaker. That is the Government that does not have any concern for tourism. As for advertising, Mr Speaker, the money has been - and I think the Honourable Member knows - from 1970/71 it was £34,400; 1982/83 £231,000 on advertising. That, Mr Speaker, is the Government that has no concern for the tourist industry of Gibraltar. The Honourable Member has not mentioned this today, Mr Speaker, but he has in the past made reference to cruise liners. 1980; 87 cruise liners called at Gibraltar; 1982, 101 cruise liners, despite the shipping recession, the closed frontier, the strength of the pound, everything you like against us. Everything seems to be going if not well, if not exceedingly well, at least reasonably well. Mr Speaker, the Honourable and Gallant Major Peliza mentioned that in this year's estimates for the Tourist Office the Government have provided £650,000 or so, he is right, there is something in that region, and that we have done nothing for tourism, that this Government is not concerned. Well, I would refer him, Mr Speaker, to page 90 of the Estimates where Government provides over another £100,000 in relation to a subsidy formula for the hotels on the question of water and electricity rates. Again, an overt, a declared concern towards the industry by the Government, and may I say some hotels have taken advantage of this formula. And I would not go into that hidden subsidy that the Government puts up with by those hotels that do not take advantage of the

formula and which costs Government money in having to continue to provide services Mr Speaker, I was surprised to hear the Honourable and Gallant Major Peliza talk about the increase in tourism everywhere, and I see that he reads the Travel Trade Gazette, the Travel Trade News and other very important papers. I wish he would keep his hearing aid on.

MR SPEAKER:

Let us not make personal references. Members can listen if they so wish and if they do not wish they need not listen. Continue with your contribution and forget about everything else.

HON H J ZAMMITT:

Sorry, Sir, I do apologise.

MR SPEAKER:

That is alright.

HON H J ZAMMITT:

Mr Speaker, he spoke about the increase of tourism everywhere in the world except Gibraltar and he has the gall to say everywhere in the world except Gibraltar. Is he aware what has happened in Malta? Is he aware what has happened in Cyprus? Is he aware what happened in the United States? Shall I carry on saying is he aware? He only seems to be aware of what he listens to when he comes over for 2½ hours on the plane to Gibraltar. Mr Speaker, the Government of Malta have had to take over and instruct, I don't want to get involved in Maltese politics, Mr Speaker, the democratic government of Malta has imposed that no hotel will charge over £2 a night to try and sell their packages. Is the Honourable Member aware of that, because they priced themselves out of the market, is the Honourable Member aware of the recession there has been in Cyprus? When I talk about what a hotel costs in Spain the Honourable Member tells me: "I am not interested in Spain". But he does and compares the price structure of hotels in Spain and let me tell you I am surprised that he does not understand that piece of paper that he has in front of him, that is, the expenditure of tourists in various countries, countries that are able to offer an all-inclusive tour with full pension and the money that the Honourable Member is mentioning of expenditure in tourism is but the coca cola that somebody may have outside or the odd meal that he has not got to have outside because the hotel caters for it. That is what he has got to start

reading about in tourism. There are many different words and phrases and he must learn those little phrases and then he will know what he is talking about. The jargon, the touristic jargon, he must learn those and then he will know exactly what they mean. Mr Speaker has there been a decline in Gibraltar? Let me tell the Honourable Member in particular that the decline in Gibraltar is not as bad as was anticipated. Let it be understood that we have had a number of setbacks, difficult setbacks. We were talking about the Lisbon Agreement with an open frontier, where tour operators went to press talking on a two centre holidays that never occurred. Am I responsible for that, Mr Speaker? Let us talk of air communications Mr Speaker. We have increased our air communications, there is a service today, there are cheaper flights today than ever before in Gibraltar, Mr Speaker. And when the Honourable Member talks about Intasun, that was possibly one of the greatest landmarks that Gibraltar's tourism has been able to have. I have for years been trying to secure the interest of a major tour operator. This Government did that Mr Speaker, and I say this Government because the motion is against Government and not me although I have been asked to resign a few times by the Honourable and Gallant Major Peliza. It is the Government as a whole, we work as a team Mr Speaker. We have Intasun attracted to Gibraltar. We know, and the Honourable Member knows very well, why they stopped their Manchester flights but they are coming from Gatwick, they are coming from Gatwick and as I said in my answer to Question 445, they hope to be able to fly in from Manchester after Christmas. Is the Honourable Member aware that during the month of October for the first time, possibly, in something like eight years, the Rock Hotel was totally packed? I am sure he isn't aware of the efforts being made by the Gibraltar Tourist Office and by our Public Relations and advertisers with regard to conferences. Is the Honourable Member aware of how many conferences come to Gibraltar during the shoulder months? Is the Honourable Member aware of Government assistance where we can on the question of the Danish airline, of Dan Air, because I remember, Mr Speaker, that the Honourable Member says that we have done nothing to help, to assist, to encourage, to foster. Mr Speaker, Government put £20,000 into the Danish operator to bring a new market out from Scandinavia. This Government did it, Mr Speaker, this Government because we believe in tourism, because we believe genuinely in tourism. It may not have lasted but it shows that we put our money despite the risks. But the Honourable and Gallant Major Peliza and his colleagues, I say colleagues but Mr Peter Isola was a part colleague, he was the odd man out, I think he used to sit at the end of the bench, he was the part-time backbencher at the end there. Even he didn't believe in tourism and if he wants I can quote but I don't want to waste more time. Even he didn't believe in tourism, the

Leader of today's Opposition. Obviously I have to leave out the other three gentlemen because they were not here, but neither Major Peliza, Mr Peter Isola, or Mr Xiberras had anything like the argument that Major Bob Peliza is bringing to this House today as a matter of interest. They cared nothing for tourism, Mr Speaker. Mr Speaker, statistics can prove whatever you want them to prove. I am saying that statistics can prove whatever you want them to prove and if I look at these statistics, and these are Gibraltar Government statistics from the Statistician's Office, the Honourable Member can say there has been a decline and I can tell him that there has been an increase. Let us stop arguing about ten per cent or up or ten per cent down because you may be finding, Mr Speaker, that in your hotel occupancy figures whereas you had 10 tourists, for arguments sake, coming, next year you may find one tourist coming and staying ten times as long as the other tourist stayed. So in actual fact when you look at arrivals which could be down or up, because the Honourable Member who is an expert on airlines knows very well what we were going through a few years ago with load factors of 87% and 97% but that still didn't fill our hotels up, we still had a 40% capacity. But then if you look at guest nights sold, you will find, Mr Speaker, they are up by 19% on all and 12% on tourists. Those are the things that these things can prove. Mr Speaker, it appears that we have only begun to clean Gibraltar up, we have only begun the water subsidy in the last six months because of the elections coming up in the next two or three months, this is absolute rubbish. The Honourable Member, instead of reading The Times in England should read the Gibraltar Chronicle now and again and I will refer him to the Chronicle of the 26 January 1983. Mr Speaker, let us be realistic, I think we all have at the back of our minds the main object and the main goal to score. Let us try and put Gibraltar in order. This Government has been trying to do that, we have tried to do it, when we try and do something a little over, then the Honourable Member tries to offend me and I can assure him he does not. I am big enough, Mr Speaker, to take it. The Hon Major Peliza said that the Chief Minister had imposed upon me the Administrative Secretary. Well, let me clear his mind. It was I, the Minister for Tourism, who suggested Mr Pitaluga and the Chief Minister agreed. I hope I am not incapable, if I am, then of course the Chief Minister can get rid of me as soon as I sit down, or even before that. Let us not try and ridicule people who are trying to do an honest day's work for the benefit of the community and the reason, Mr Speaker, why I asked for Mr Pitaluga to join me in my endeavours was, as the Chief Minister has mentioned, for the coordination as Head, if I may use the phrase, Head of Heads of Departments, to try and coordinate, to try and get people together and it all began when we had a presentation

here by our advertisers and our public relations people that the Chief Minister made sure that every department, and I agree, that virtually every department has something to do in some small or large way to assist tourism and they were asked to come along and put their hearts and souls behind this. Moreso, Mr Speaker, because of Mr Pitaluga's involvement particularly on the new land situation vis-a-vis Queensway and Rosia, that was my idea I have been accused of trying to put Mr Pitaluga over the Director of Tourism. I am not ousting the Director of Tourism from his job. I am saying lets work together but, alas, when you do that, you get all kinds of situations. I think the Chief Minister mentioned it in one of his answers that the Administrative Secretary met with the Commissioner of Police to discuss the question of cars and litter, the Public Health Department, the Director of Public Works, everybody together. And as the Honourable and Gallant Major Peliza can see from a press release only yesterday, Mr Speaker, we are trying to get school children to go into a competition to keep Gibraltar tidy. Mr Speaker, that, I hope, shows Government's concern. What I think I certainly have done is to show the total lack of concern of the Opposition with regard to tourism. Apart from what I have mentioned we have also helped, I hope, with what we did with the Departure Tax with the GB Viscount. The Government has been pressured into nothing on tourism because the Opposition couldn't care less about tourism and I have proved that beyond all reasonable doubt, not now but way back when Major Peliza was Chief Minister. His faith and hope was in MOD spending and he was wrong and he has regrettably been proved wrong and he was proved wrong by a Member of this side of the House, the Honourable Mr Abraham Serfaty who was warning them and he has to eat humble pie, so let us stop that phobia, Mr Speaker, I am surprised too that the Honourable Member should talk about the Government not doing anything on the historical side. Has he seen the new Tourist Office brochure? Has he seen the new "Walk with History" produced by the Gibraltar Tourist Office? Has he seen the very many pages no longer refer to pretty girls or muscular young men on the sand, sea and sex that he talks so much about. Has he seen the way that Gibraltar is portrayed with its wild life and fauna, has he seen that? Let me say, Mr Speaker, possibly he has not and therefore I would say greater shame on him because even at this late stage I will repeat what I said before. I still extend a welcome to the Honourable and Gallant Major Peliza, as Shadow Minister for Tourism, to pay one visit to the Gibraltar Tourist Office and see for himself what we are doing, one visit. He has not appeared in the four years he has been Shadow Minister anywhere near the Tourist Office which other members of the Opposition, may I say, Mr Speaker, have done with regard to the respective ministries they are shadowing. That is the concern

that Major Peliza has for tourism, that is the regard that he has the regard he has for tourism is to come to Gibraltar, appear on television or what have you, and try and destroy everything in a quarter of an hour of what we have done over the preceding three or four months. Shame, Mr Speaker, I think it is embarrassing to have to be told that and I have extended an invitation time and time again and to this day he has still not thought it proper to come along and sit down and have a chat with me, but my cordial right hand of friendship, Mr Speaker, is still extended, he is welcome and possibly in this trip he may be able to spare five or ten minutes to come along and see us. Mr Speaker, he spoke of the World Trade Market. Yes, we were aware that there was a World Trade Market in Olympia, we had been invited. When I was over in England we received an invitation to attend this, I am afraid it was not £10,000 as the Honourable Member mentioned, it was substantially more. This is a matter of judgement and a matter of the same realities as the Honourable Member no doubt spoke about of tourism in 1969/70 and 1971. It is a question of cutting the suit according to the cloth. We found, Mr Speaker, I wasn't there, the Honourable Member was and therefore I will bow to his direct knowledge. We have experience that when particularly the Caribbean countries turn up, they are able to have a lovely desk and normally provide such things as tin bands and other things of course that we cannot compete with and it is no good saying that we can, unless we take a rock ape by the hand and the Minister holding up the British flag, I very much doubt what else I can take there to be of attraction. We just cannot compete and rather than put ourselves into having to cut down on advertising, we felt we should not attend. We would have liked to attend but we have to be careful because you can be ridiculed if you cannot offer equal or similar attractions and we certainly cannot but on the other hand, Mr Speaker, we do attend, for instance, all the Philatelic events because there we are more or less on a par. I think the Honourable and Gallant Major Peliza will be sincere enough to say that some of these countries go into tremendous expense. I remember seeing a Canadian exhibition where they had horses and Canadian Mounted Police. We just cannot get anywhere near that at all. Mr Speaker, he is right in saying that in UK Mrs Margaret Thatcher is now becoming very much aware of the tourist potential of Great Britain, and, in fact, it would not surprise me in the not too distant future to see a Ministry being dedicated to that source of income. Britain has never been touristically orientated but they are becoming so now. I agree Mr Speaker, with one thing that the Honourable and Gallant Major Peliza said and that is value for money. I agree entirely that people will come to Gibraltar even if they have to pay that little bit extra because according to our information there are people who come back, because of personal recommendation,

because they have been constant visitors, patriotism, Britishness, military history, people who have served here, yes, they are prepared to pay those extra pounds. What we have to be careful about, Mr Speaker is, and we have to be absolutely serious, let us not kid ourselves, there is a great price war going on in tourism. Let me tell the Honourable and Gallant Major Peliza that it is going to be cheaper this summer for British holidaymakers to go to Spain than to go to Bognor, Skegness, Scarborough or Blackpool. I can forecast that because we have information. Of course more people are travelling abroad. I reminded the Honourable Member, I think it was at the last meeting of the House of Assembly, I reminded him of four weeks in Majorca £86, flight, bed and breakfast and every additional week £9. My God, Mr Speaker, it costs me £9 a day to live at home, never mind £9 a week. How do we compete, God knows, I certainly haven't found the formula. We cannot compete, but I will say in fairness and I think I should be absolutely truthful about this, we cannot compete for the simple reason that in winter, incertain holiday resorts in Spain, the staff of hotels do not get paid, they work voluntarily just to be assured of a job next summer. Mr Speaker, if my Honourable Friend Mr Bossano were here and he drew up an agreement with me that the hotels would have free labour for the winter months, but let us be honest, we know very well that it would not happen nor would we want it to happen. Therefore, if the hotels are not charging and all you are paying is the air fare and a continental breakfast....

MR SPEAKER:

Let us not go into all the details.

HON H J ZAMMITT:

Mr Speaker, we cannot compete with the strength of the pound and I think I have said here before that the tour operators today, forward buying for tours for Spain next year, they are buying at the rate of 3 hundred pesetas for a pound, that is what the tour operators are getting, three hundred pesetas per pound. How can we compete, it is not just the value, it is not the service, it is that it becomes abundantly so lopsided pricewise that you have to be very patriotic, very, very patriotic to say that you are going to Gibraltar for possibly something like eight times the price of a similar holiday elsewhere. What the Honourable and Gallant Major Peliza said about involving everybody is exactly what we have done. We have the Tourist Advisory Board involved with Public Works, with everybody, we are trying to get everybody together, we are trying to bring in a mental state into the people of Gibraltar, who hitherto, possibly thanks to the efforts of the Honourable and Gallant Major Peliza, had not a serving mentality.

They had been brought up over the years with an MOD spending mentality so why should they bother about becoming touristically orientated. The question of advertising on iron rods, whether they are iron rods or wooden beams, creosoted to make them look antique is a question, Mr Speaker, purely of judgement, I am not going to argue with that, that is a matter of judgement as everything else is a question of judgement, whether we should spend more, whether we should spend less, whether we should be coming or whether we should be going, it is purely a question of judgement. But this is something I certainly would not argue about because personally I do feel that those signs coming round the Cross of Sacrifice are an eyesore. Mr Speaker, the Honourable Member also spoke, very craftily may I say, of 1979 figures. He spoke of 1979 tourist arrivals in Gibraltar. Well, 1979 was a boom year and, in fact; Mr Speaker, most of the arguments that I have heard was the fact that everything was based on 1979. I would like the Honourable Member, and I don't want praise because we never get it, Mr Speaker, if we brought 20 planes to Gibraltar a day, if our hotels were totally booked, we would not get praised, we do not think that the Opposition is here to do that, but we would like the Opposition at least to look at the situation and see, as I said earlier on, the very many problems that we have had to overcome. I have spoken of the strength of the pound, the frontier situation, the let down to the traders in almost four times waiting for an event that never took place but in addition to that outside forces unfortunately still dictate our destiny. The departure tax in Morocco adding £50 to virtually every person crossing the straits of Gibraltar, obviously had an effect on our economy, I don't know if he would like to include that in the Motion and blame me for it. What I would tell the Honourable and Gallant Major Peliza and Members Opposite is that we may have a lesson to learn, we might well have a lesson to learn in trying to make public so many reports and so many details and what have you because only a few instances, like for instance the sudden sale of Gibraltar Government Lottery when the frontier opened, we made such a hullabaloo about it that the Spaniards immediately prohibited its importation. We come out with statistics saying that Moroccan day excursionists coming to Gibraltar are leaving £1.2m and King Hassan says: "I will have the £1.2m, why should Gibraltar have it". Let us keep our big mouth shut, let us learn, let us keep our mouth shut once and for all and that goes for other reports which are not the subject of this Motion, but which I would ask Members opposite for Gods sake let us be sensible about it and let us keep our dirty washing to ourselves and not let other people take advantage of our situation. Now Mr Speaker, what really surprises me of the Honourable and Gallant Major Peliza's contribution is that during one of his visits here, apparently, I take it, in 1980, he saw or received,

I don't know, or contacted Mr McNally from Exchange Travel, Mr Nigel Thompson from Cadogan or he read about it in the Chronicle, or David Okes-Voysey, Chairman of the Hotel Association, and they complained bitterly of losses. Well, why didn't he bring it to my attention in 1980? He gets an allowance, half of mine, Mr Speaker, and I work ten hours a day as a Minister, why didn't he write me a letter, why not? Then he does the same thing, Mr Speaker, on hotels. In 1980 there was a decline between 25% and 35%. Why doesn't he write to me, does he want a postal allowance? I am sure I could manage it out of my Tourist Vote, Mr Speaker, at the rate that he writes my postal and my stationery vote would not suffer at all. But let me tell you, Mr Speaker, that it is time that Members opposite realised that today we are paid by the general public, we are reasonably paid and they get half an allowance, half a Minister's allowance and, my God, they don't do half or a fraction of what Ministers do and yet get stick from that side of the House. It is high time, Mr Speaker, that we should all start pulling our weight together and not just Ministers who suffer a tremendous amount of inconvenience, without going into details, whilst other people can have a life of leisure, a life of pleasure even away from Gibraltar, and coming here and creating a storm in a teacup at his pleasure and at his convenience. Mr Speaker, it is ridiculous for the Honourable Member to say that this motion speaks for itself. It is an aspersion on himself, it is an aspersion on himself and what is even worse on the Opposition because I am sure, Mr Speaker, and I say this without trying to be funny, he did not remember the little importance that he has given tourism as shadow, as Chief Minister of Gibraltar, or throughout the twelve years that I have been in this House. He did not realise that I had done the research that I had done to expose that his interest is not there, his interest in this motion is to bubble up heat because within two or three or four months he is going to come to Gibraltar and as he normally does, from 8 in the morning until 2 at night he will go electioneering everywhere reminding everyone of Peliza's presence because certainly his performance regarding tourism in Gibraltar leaves a lot to be desired and I have further material in case the Honourable and Gallant Member thinks that I have not and that I leave for the elections. At least I will make him read between now and the next election. Mr Speaker, I think that I have taken up enough time of this House. I have the Hansard here of the Hon Member's two motions on the adjournment which quite honestly are so contradictory that I do ask him to read them, to read them carefully, to go back to the days when he was Chief Minister, its nostalgic, I am sure he would like it. Read and go back into your own autobiography, virtually, and then, Mr Speaker, he may have very different views about bringing a motion trying to show up the only Government of Gibraltar that has been consistent in its policy over tourism. Mr Speaker, we cannot accept this motion,

we cannot even accept an amendment to the motion. We have to treat it with the same contempt as the Honourable Member has treated tourism. Mr Speaker, I think the Honourable Member should now be satisfied that you cannot run with the hare and hunt with the hounds and in politics there is one thing that keeps you, and that is continuity and you must be honest - I am not saying that the Honourable Member is not honest - you must be absolutely honest in what you say when you believe in it and stick to it. Mr Speaker, I cannot ask the Member to grow up, he is older than I am, but for God's sake wake up.

The House recessed at 12.55 pm.

The House resumed at 3.10 pm.

MR SPEAKER:

I will remind the House that we are on the Motion moved by the Honourable and Gallant Major Peliza. I understand that the Honourable and Learned Leader of the Opposition wishes to speak.

HON P J ISOLA:

Mr Speaker, we are the honourable Opposition and we do not take advantage of the few numbers on the Government benches which could ensure a speedy passage of the motion. Mr Speaker, the Minister for Tourism has spent I would have thought three quarters of his time doing a historical analysis of the tourism record of the Opposition and it astounds me when he talks of the duties of an Opposition in these matters. He seems to think that the Opposition Members, that my Honourable and Gallant Friend, just because he gets half the salary that the Minister gets, and he seems to be very bitter about this, I don't know what it has got to do with the Motion but, anyway, he seems to be very bitter about this; should be there at the Gibraltar Tourist Office every day at nine o'clock to tell the Minister what he has to do and this is not the function of an Opposition. The function of an Opposition is to operate, Mr Speaker, in this House and to be critical of the Government in this House and to make suggestions to the Government in this House. That is our role, that is our constitutional role and if the Minister feels that we should be a back-up to the Gibraltar Government then he ought to suggest changes in the Constitution. The Minister has made a very, very bitter attack on my Honourable and Gallant Friend, one of the bitterest attacks I have heard in this House, thus confirming the adage that the best means of defence is to attack but, unfortunately, Mr Speaker, there was no defence of his position, there was no defence of the Government position whilst it has been in power during the last four years but only a diatribe of historical events of the last fourteen years. It is incredible to me that the Minister should have juggled with figures to try and prove the point. The Minister has misled the House in the figures he has given and I will give an example. He has accused my Honourable and Gallant Friend of

having switched his position to the position he held on tourism when he was Chief Minister thirteen years ago, and that is not correct. It is just not correct and I will illustrate that. In the first place, Mr Speaker, any child will know that the situation in 1970 or 1971 was entirely different to the situation that exists today. It is a completely different panorama, to use the name of a prominent weekly, a completely different panorama. In 1969, the frontier closed, all Spanish labour was withdrawn, it was traumatic experience for Gibraltar. Moroccan labour had to be hurriedly imported, the economy was at risk because all links with Spain, on whom the economy had depended for many years, had been closed and the work of the Government of that time anybody would agree would be to face the Spanish challenge. There is no question at all, and he should know this, that the mainstay of the economy was then and still is Ministry of Defence expenditure, there is no question about it. And when my Honourable and Gallant Friend talked about being realistic in touristic expenditure, he was absolutely right and we are absolutely right today to talk about being realistic in tourist expenditure as, indeed, in all other kinds of expenditure. The Minister for Tourism laughs and jokes at the fact that my Honourable and Gallant Friend was saying in 1969 or 1970 or 1971 or 1972 that if the Ministry of Defence closed the Dockyard or whenever it was, it could go commercial, he was joking about it. He doesn't realise, Mr Speaker, in his ignorance, he doesn't realise that during that period of time shipbuilding and shiprepair was on the ascendancy, that the world shiprepair business, the world shipbuilding business was booming, he doesn't realise that. In those days, Mr Speaker, a commercialisation project for the Naval Dockyard was far more realistic than the madness with which the Government of this day in Gibraltar has gone into commercialisation in the middle of world recession and on impossible terms. I won't call your aid, Mr Speaker, I don't mind if he laughs, he won't be laughing by the end of my speech, no, I don't think he will be crying, he is too hard a nut to crack that way. He just doesn't know his position and he criticises my Honourable and Gallant Friend when his criticism should be aimed at his own Chief Minister who was put on notice in 1977 that the Dockyard might be closing and kept it to himself, told nobody and didn't plan for the Government of the future and didn't plan for what might happen, he left it for 1983 in July to say that tourism was now very important and he had to do something about it. His remarks, Mr Speaker, should have been addressed to the Chief Minister and not to my Honourable and Gallant Friend who was absolutely right in the remarks that he made in that day. But then, Mr Speaker, what does our noble Minister for Tourism say? He says the Government of my Honourable and Gallant Friend spent £106,000 in tourism in 1970, we spent £378,000 or £368,000 in 1978 and we are spending £669,000 in 1983 - roars of support from his side of the House - but what he did not tell the House was the effects of inflation, what he did not tell the House was the percentage position then and now and he might be interested to hear it. In 1971, my Honourable and Gallant Friend's Government voted £106,520 for tourism, out of a total expenditure of five million three hundred and ninety three thousand that the colony had. That represented, Mr Speaker, 2.83 per cent of total expenditure.

In 1983/84, today, thirteen years later, the Government is budgeted to spend £663,100 out of a total expenditure of £50,000,000 making it 1.29% of total expenditure so that in relative terms, my Honourable and Gallant Friend's Government were spending 100% more than the Government is spending today and that is the position mathematically. It is not rubbish. If the Honourable Minister will put £60m down of total expenditure, if he would be kind enough to do that, the total expenditure on recurrent expenditure for the Gibraltar Government for 1983/84 is quoted in the estimates, they may be wrong, Mr Speaker, I don't know, £50,342,200. The amount being spent by the Tourist Office is £653,100 and if he looks at the estimates of expenditure of 1972 to 1973, he will see that the expenditure for 1971/72 was £106,520, anyway, he is not listening so it doesn't matter, but if he does use figures, Mr Speaker, the first thing he should do is to state them against their correct backgrounds and relate them to percentage of actual expenditure, the first thing he should do, and the second thing he should do if he is going to use figures is to be accurate. I am not using this against the Government Mr Speaker, I am not saying that my Honourable and Gallant Friend was undermining tourism or wasn't spending enough on tourism or was spending too much on tourism and that the Government is spending too much or too little today in tourism, you cannot express achievement just by expenditure, I concede that, but what the Minister cannot do is come to the House and mislead us all about figures and try and appear to be very well briefed and very well versed and pick choice quotations from 1970, though what 1970 has got to do with 1983, I don't know, and pick choice quotations from 1970 to try and show that my Honourable and Gallant Friend had no interest in tourism at all and has no interest and he has been like that ever since which is absolute rubbish and he knows it. For a Minister to have to defend his achievements of four years by going back to 1969 as to what was done then which is a hell of a lot more than has been done since, Mr Speaker, but for what was done then to defend himself, shows the very weakness of the Government case because if this present AACR Government and I talk of the AACR because the Minister for Tourism has stressed the AACR Party, the AACR Government knew or at least one Member of it knew in 1977 that the Naval Dockyard was in jeopardy and kept it to himself which he was entitled to do so as not to cause alarm and despondency and so forth and the Government does nothing about it until now in July when Mr Pitaluga the Administrative Secretary is hurriedly pushed to help my Honourable Friend the Minister for Tourism in his predicament in tourism, surely, that is an indictment of this Government, not on the indictment on my Honourable and Gallant Friend because even if my Honourable and Gallant Friend had made an appalling mess of tourism in 1969 to 1971, even if he had made an appalling mess of tourism which he did not do, but even assuming that he did, it is no defence to the present Government to throw that in his face because they have had 12 years to put it right and it is a reflection on them if they still haven't put it right after twelve years. So, Mr Speaker, arguments of history do not help the Minister for Tourism in his arguments in this motion. The sum total of his

arguments against my Honourable and Gallant Friend is a complaint that he hasn't visited his Tourist Office and I am prepared, Mr Speaker, I am prepared to help him in that. If he is so worried about it, I will turn to my Honourable and Gallant Friend and ask him: "Please visit the Tourist Office, let the Minister give you a cup of coffee or whatever beverage they are used to giving in that office and then you will have met his counter attack on this". My Honourable and Gallant Friend, Mr Speaker, to accuse him of lack of activity is not to know my Honourable and Gallant Friend. He is the most vigorous, the most energetic politician, in my view, that Gibraltar has. I won't complain about interruptions from the Chief Minister, Mr Speaker, I am even prepared to give way and allow him to explain why he has done nothing for tourism since 1977 when he first got the warning signal about the Naval Dockyard closing. I am even prepared to do that. Mr Speaker, I tried to listen to the Minister for Tourism to try and grasp what his defence was. He referred to my brother when he was Minister for Tourism, I stand to be corrected because I am not quite sure, but I am almost certain that it was my brother as Minister for Tourism who indeed started the promotion visits to England during his ministry, started the promotion visits to promote Gibraltar which has been enlarged on by subsequent Governments and by this Minister who still goes on these promotions and goes to try and sell Gibraltar, the only difference is he doesn't seem to do it very successfully and we do not have this abundance of tourists that we seemed to have in Gibraltar in the old days. It is no use giving us figures Mr Speaker, the figures are known to everybody. There used to be an abundance of tourists to Gibraltar until the last three years, in fact, ever since the Minister took over that office in an acting capacity. There has been a tourist decline and the tourist decline has become so serious that the Chief Minister has found it necessary to send his most trusted Civil Servant into that department to see what he can do to coordinate, or to help, or to give advice or to report to the Chief Minister or whatever. If he had, Mr Speaker, a thriving tourist industry in Gibraltar, there would have been no need for the Chief Minister to have sent his trusted Civil Servant to give the Minister for Tourism and his department a hand, it would not have been necessary, and that in itself is an admission that something is wrong with tourism in Gibraltar and with the Tourism Industry and what I think the Minister should have done, with respect to him, is instead of involving himself in a great tirade against my Honourable and Gallant Friend, he should have addressed himself to the problems that exist in Gibraltar today for tourism and address himself to what the Government had done to overcome those problems and that is what he has not done. He has taken this motion as a personal attack on himself as Minister for Tourism and that is wrong because what my Honourable and Gallant Friend has done is to hold the Government as a whole responsible because it is the Government as a whole that is responsible and I will say why in a moment. The Government as a whole is responsible, Mr Speaker, because the tourist product in Gibraltar, in other words, the place which people visit Gibraltar for for their

holidays, has been deteriorating steadily during the last four years. When Intasun came to Gibraltar, to give a very small example, they brought 120 tour agents. This was something big, but these travel agents came to Gibraltar and they had to look at Gibraltar as it was, they saw the dirty streets, they saw the general set-up in Gibraltar and they saw the cost of things, they saw everything. Can the Minister for Tourism assure us that they went away very happy? I don't think they did, I think they were very unhappy with the entertainment they were given the very first night when they were told not to have dinner because there would be food in St Michael's Cave and they went up there and at 9.30 all they got was a few tapas and they were very upset about that, but I would hope that would not change their attitude to Gibraltar. It is the product that has been declining gradually over the years, that the Government has allowed to decline over the years. That is one of the main problems for any growth in the tourist industry in Gibraltar and for that the Government has to take responsibility. They are the people who were elected to govern, they must take the responsibility for that. Then you have the decline in tourism, of course we know there has been a decline in tourism in other parts of the world though not in Spain, we know that, but Gibraltar should have been there getting the market. One of the serious things that I think has occurred in tourism has been the lack of coordination between the Minister, or the Government, and the people involved in the Tourist Industry. We had a debate here some time ago in relation to having a Tourist Advisory Board. In fact my Honourable and Gallant Friend put a motion down on that, and a Tourist Advisory Board was set up, although it took a long time to set up like everything else, but it has never got working. There seems to be complete lack of coordination between those people who are responsible for the tourist industry, for those people who bring people to Gibraltar, who entertain them in Gibraltar, give them drinks in Gibraltar or give them food, or give them entertainment, between all those people, for which they are paid of course, and the Minister. He has not told us what has been the real problem that besets the local picture. He talks about people not coming here because they can get a holiday there cheaper, you can go to Palma for four weeks, £80, you can go here, you can do that, he has shown what all our competitors do, but he doesn't show what it is that keeps people away from Gibraltar, he hasn't told us what his problem is in Gibraltar. Listening to him, there is no problem but obviously there is, Mr Speaker, because people are not coming to Gibraltar. The occupancy factor in the hotels is very low indeed and Gibraltar is in such a state touristically that the Chief Minister has had to intervene and that is the truth of the matter. The Minister points proudly at the increased expenditure that the Government is having on tourism. I would like to know where that is stated because if you look at the approved estimates of expenditure for 1983/84, you will find that the revised estimates in tourist expenditure for 1982/83 is £669,500 and the estimated expenditure for 1983 to 1984 is less, £653,000, so without making any allowance for inflation the tourist department is going to spend less, apparently, in 1983/84 than they did in 1982/83. And when you

consider, Mr Speaker, that a lot of that expenditure is today in the London Tourist Office, rent and everything else, the amount of money that the Government is spending in relation to total expenditure on tourism is lower today than it has ever been, lower in 1983 to 1984 in relation to total expenditure than it has ever been and that at a time when the Chief Minister tells the House how much importance the Government gives to tourism. These are the sort of arguments that I would have hoped the Minister for Tourism would have explained and put forward and replied to rather than involve himself in a historical tirade against my Honourable and Gallant Friend. I think the weakness of the Government position is illustrated by the fact that he has to spend three quarters of his speech talking to us about what happened in 1971 and talking to us about his great sorrow that my Honourable and Gallant doesn't visit him at the Gibraltar Tourist Office and, in fact, complaining that the 75 questions that my Honourable and Gallant Friend has put to him have not been enough. I hope my Honourable and Gallant Friend in the short time that is left for this House, will put 20 or 30 questions on tourism to keep him happy. Mr Speaker, I think that if my Honourable and Gallant Friend's motion has succeeded in awakening or in challenging the Government on their declared policy of helping tourism and promoting tourism in Gibraltar, then it will have been worthwhile but it is absolutely useless for the Government to say and to talk proudly of their tourist record during the last four years because there has not been one and it has not been a proud record. They may not be altogether to blame for it, that is a matter for argument and conjecture, but for the Minister for Tourism to say all the things he has done and how successful it has been, flies in the face of facts, flies in the face of reality. But as my Honourable and Gallant Friend has said, if and so long as there is a Minister for Tourism then he must take responsibility, he must take the rough with the smooth. At the moment he is going through a rough period, the tourist industry is going through a rough period and he has not satisfied us that either he or his Government are tackling this problem with the energy that it deserves, with the energy that it requires and, accordingly, we of course, support the motion of my Honourable and Gallant Friend.

HON CHIEF MINISTER:

Mr Speaker, at five to one, the Leader of the Opposition got up as if he was going to speak well knowing that he wouldn't be able to start at that time. It was quite clear that he had been stung and that the mover had been stung by the very competent, well researched, well prepared delivery of the Minister to which I would like to pay tribute because he made what I consider to be one of the best speeches in answer to a censure motion that has been heard in this House, and I have

only been here since 1950. I could see that he was stung by that and it is all very well to say it is no use looking back, of course it is important to look back, it is important to look at the performance of people and the consistency of people and not as the mover said at one time: "It is one thing what you say before the election, and it is another thing what you do after the election", which is what he said in 1969 when by sheer fluke he was brought into office in the most peculiar coalition in the political history of Gibraltar and which of course terminated in the disaster that it did. But of course if the mover is such a wonderful person, the best, most energetic Minister then the people of Gibraltar are the most ungrateful but if he is as good as the Leader of the Opposition wants to make him be, then the people of Gibraltar must be either foolish, ungrateful, because he held office for a very short time and he was very quickly sent packing and he has never seen the light of office ever since in the last thirteen years. That, I think, is either that the people know exactly what his performance was like or that they are very foolish that the only people who stand up over everybody else are the Opposition in particular, the only other person who has had the honour of holding the post of Chief Minister and who sometimes speaks as if he were a beginner in politics by the kind of silly questions he asks in this House. I can never imagine some of the questions that come from him that could come from somebody who held office even if it was only for 2 years and 10 months. Anyhow the record and Hansard show quite clearly eleven years after what the Mover was saying has shown him to be inconsistent so the record will show in years to come that the Minister has made his most excellent contribution and he was not defending himself, he was not only defending the Government, of course we have collective responsibility, but he was being positive about it, he was saying what was being done. It is not like all the things that the Leader of the Opposition has twisted as if we had not heard the Minister himself speaking, anybody who heard the Leader of the Opposition describing what the Minister has said would think that what he said was completely different, but that is his ability to twist matters in this House to make them look different to what they are. Fortunately the people know that well enough and I am sure that they will have a very early opportunity of knowing it further. One point has been raised about the 1977 proposed closure of the Dockyard. Well, it is true that that was not known because by the time it could have been known I had achieved the reversal of the policy by Her Majesty's Government but the great difference there was that at that time the closure of the Dockyard was not going to be on the basis of defence review but on the basis of economy and therefore a direct attack at the economy of Gibraltar and that is why then I fought as hard as I could and the thing never came to the light of day until many years later because

it would have been very easy, it would have been fantastic to have gone to the 1980 Elections and say: "I achieved the Dockyard having been kept opened". I never said that because it was a trend of thought at the time in order to achieve economies that hit at the economy of Gibraltar and that is what was intolerable and that is why it had to be fought tooth and nail because that was a direct attack on the economy of Gibraltar. We know now that the closure of the Dockyard is as the result of Defence review, not as the result of an attempt at the economy, as a result of Defence review because whether we like it or not the British Government has agreed that there is no longer any need to refit leander class frigates and that they are going to be phased out and the present set-up of the Dockyard cannot take this kind of work. But what has happened? I think to some extent I give credit to the Mover in having been prophetic because exactly what he said would happen has happened that if ever the Dockyard was not required for the Navy we had a wonderful place to have with British help a commercial dockyard. I must give him credit for being prophetic or perhaps for having had even if it is only a flash of commonsense for a change. I quote: "I would just beg your indulgence for another couple of minutes to try and do away" - you will not forget that, I can tell you - "with any alarm that something like what happened to Malta could happen to Gibraltar overnight. We know that for a number of years already the Dockyard is committed to Gibraltar. The important thing, and this is what we have got to realise, is that whilst in Malta there was unemployment, very serious unemployment even before the Dockyard was closed, in Gibraltar very happily, we have over full employment to a very large degree. That is my first point, my second point is that because of those circumstances even if the Dockyard were to close down as a naval repair establishment, it could be used in my view, with the support of the British Government, for the benefit of the economy of Gibraltar as a commercial concern. It is beautifully situated with hundreds of ships going through the straits perhaps it is over a 100 a day and therefore from that point of view I think we have a very stable source of income in Gibraltar, come what may, from the defence point of view. If one day all the nations decided that they are going to dump their armament into the sea, I doubt whether that will happen although I would hope it happens tomorrow but I doubt whether it will, and the Dockyard ceased to be a necessity, I am sure that from the commercial point of view it would be the main source of income". Wonderful prophesy, exactly what we are getting plus all of the prime sites and the Rosia Swimming Club and all the rest. That could not even be imagined then but there it is and there the words remain for posterity without an index. I wonder what else we would have discovered if we had had an index. I dread to think about an index, not only because of that but because we would be reviving Mansard every day at

every occasion. It is not unfair to revive it in a situation like that and throw at a former Chief Minister something which he said eleven years ago as being ideal which he says now is not worth looking at. But as the Honourable Mover said after the 1969 elections, one thing is what you say before the elections and the other thing is what you do when you get into office. That was the very great different reason in the 1977 proposed closure and I can tell Honourable Members and I can say publicly that that was a very hard time to live with that thought for a while without being able to share it with anybody because it was the only way in which I could achieve what I wanted, and I did, and that was that for purposes of economy the Dockyard was not closed and if I have to pay tribute to anybody on this I would have to pay tribute to two people and that is to Mrs Judith Hart and Dr David Owen. And I do this because they were the protagonists at the time and not because they belonged to any particular party. I am sure that anybody else of any party at the time for the reasons adduced in favour of keeping the dockyard would have done exactly what they did. But it is time that they did it. Of course the Leader of the Opposition has been very annoyed at the way in which the Minister has defended the motion. Of course, the Minister does not require the mover to come and help him to do the work, but I think it may have struck members opposite and it struck me the other day when they were complaining at not having enough time to read papers which we have had for 10 days, and it is indeed an injustice if you put it that way that Ministers who are hardworking-double the work of what a member of the Opposition does and yet when you get ten days to look at a few Bills they come and complain they haven't had time. What the hell do they do the rest of the time when there is no meetings of the House of Assembly for which they get paid whatever has been decided, but in proportion if there is pressure of work and they have to study the papers they should devote whatever time is required to come here prepared. If you have been away, you come two days before the meeting, that is a different matter but if you are here you get them in time of course there is no reason why you should not be able to be prepared with the amount of time given by Standing Orders to make a Bill public and I feel that is a very telling point and the Minister wasn't telling the mover that he ought to do the work for him, but the same as other Ministers say, are paid as other members of the Opposition and he mentioned in his fairness, that other members of the Opposition visited Departments to which they are shadows and they are well received and they are attended, but there is one very good reason why the mover hasn't been able to do that because he doesn't live in Gibraltar and he comes here for a meeting for what he says, an attempt of appearing in the television to appear that he is on the ball all the time, he rushes from one side to the other on his bicycle and then

comes here makes a few questions and goes away. Of course he has not time to visit and have a cup of tea with the Minister in his department. But if in fact he was to get himself involved with what he is doing what less could be expected than to say: "well, let us have a chat about it, he is not bad to have a chat with, he is quite nice." And I am sure we would all enjoy having a chat with him, but he does not appear to have got the time, his mind is somewhere else. He is living somewhere else, his home is somewhere else, his work is somewhere else, it is only the House of Assembly that is here for him in Gibraltar.

HON P J ISOLA:

If the Honourable Member will give way.

HON CHIEF MINISTER:

No, no, I am sorry I will not give way. I did not interfere with you I said I had had my talk when I did. One other thing there was an attempt to belittle - which is very typical of the Leader of the Opposition - belittle everything, to belittle the Intasun intervention I think the Minister was very explicit about what happened and very clear and very honest, of course there has been a set back and he has explained what the set back was, and then the Leader of the Opposition in his usual way tried to belittle the reception given because the tapas were small or whatever it is, but what did we get out of all that? Well I have here the Intasun Summer 1984 Brochure of which 2½ million have been distributed, and here we get four pages for Gibraltar. Four full pages for Gibraltar. Gibraltar is put on the map on 2½ million homes in the United Kingdom as a prospect of coming on holiday. How much is that worth in terms of publicity? Isn't that worth every penny that has been done and let me say that in respect of the Intasun people whether they have to go somewhere else to have dinner or not, they were all delighted with the way in which they were attended and received. And I had that from Harry Goodman down to the last person who came here and there is no doubt that they put a very real effort and I have no doubt and having regard to the amount of money that they have spent if they have not been able to operate as originally suggested they must have had very good reasons for doing so but they are obviously concerned and committed to the extent of the way in which they have produced Gibraltar on the Brochure and that there will be benefits to be gathered from their participation. But there is one thing which is very contrasting and this was remarked by the Minister but it had been made more clear and the unfairness of the mover's remarks has been made more clear by what the Leader of the Opposition has said because what the mover said that we were going down in tourism and everybody was going up. The

Minister replied adequately but the Leader of the Opposition said that it is well known that the tourist industry is going through a bad time throughout the world, that is what he said which is not what the other one said. "Tourist industry going through a bad time", those are his words and Hansard can answer for it. That is what the Leader of the Opposition said. That the mover said everybody else was making progress except us. So, you know even at this short debate, or this debate, there are different views as to how to approach it in order to try and harm the Government. But I am very glad to say that I am proud of the case that has been made not just to answer the responsible allegations of the mover but the positive way in which the Minister looks at his Ministry and the manner in which he has performed this morning. And I fully support every word he said.

HON J BOSSANO:

I won't get drawn Mr Speaker, I won't get drawn into an argument of 1971 when I was not around. Let me say that I am supporting the motion purely and simply on what the motion says. I don't think it is anything other than a matter of fact that the tourist industry has suffered a decline. I mean that is either true or it isn't true. And I think it is true because I think people in the industry are saying that and I imagine they are in a better position to say than anybody else, and I think in fact the Government's own statistics indicate that there has been a decline. Secondly, I wouldn't support the motion myself, apart from the fact that I think that, that is a true figure because the first part of the motion holds the Government responsible for not taking sufficient effective action to prevent this from happening which pre-supposes that it is possible to take sufficient effective action to prevent it. Which I myself have doubts about, but which the Government cannot have doubts about because they are saying they are going to do it now. Now if they think they are going to do it now in 1983 then it is correct to accuse them that they have in fact gone wrong in not having done it before. If they were saying now in 1983 it is impossible to take any measures to stop the decline then one couldn't accuse them for not having done it since 1980. So I think in fact that the second part of the motion is a statement of fact, the first part of the motion in fact is substantiated by the announcement of the Government itself that it is going to produce a new thrust to develop tourism in Gibraltar without a frontier opening, I think the Chief Minister has said in his speech in London that Gibraltar can survive on the back of the commercial dockyard and the tourist boom, without having to wait for normalisation of the frontier. I am not quite sure what the normalisation of the frontier is going to do, because it

seems to me, we spent a lot of money either our own money or UK tax payers money and I think wasting money is something that one shouldn't do irrespective of who's money it is. So we spent a lot of money getting people who charge very high fees for giving us advice which we then ignore and keep secret. And certainly the advice that the Government has had from PEIDA would not justify their optimism about a tourist boom with a closed frontier. Because PEIDA did not say that it is not possible to develop a mass tourist market because they haven't got Queensway or the Rosia Swimming Club PEIDA didn't say that. PEIDA said it wasn't possible fullstop. They said Gibraltar couldn't compete in that area. And, I don't know whether the optimism of INTASUN will prove well founded or not, but certainly the criticism that has been made of Intasun by other people and again it is not an area where one can be sure because everyone is defending their own little patch and obviously people who stand to suffer from competition by Intasun will try and knock down Intasun's projections and Intasun who stands to gain will try and push them up the same as Appledore does and so forth. But certainly there seems to be an argument for saying that Gibraltar's cost structure effectively take it out of the cheap end of the market whatever you do unless in fact you are going to subsidise tourists and I remember Mr Speaker, because I think I have been the most sceptical member of this House since I arrived in 1972 about the potential of tourism and I don't mind saying it now because in fact my reason for supporting the motion has nothing to do with collecting votes in a couple of month's time and I say now as I have said on so many other occasions that I am sceptical about the potential, loses me votes from that particular quarter, well, so be it. I am not prepared to buy votes on false pretences. And I remember asking the Honourable Serfaty in the House a long time ago whether the Government would conduct a cost benefit analysis on the value of tourism to the economy of Gibraltar and I remember the blank look on his face. I don't think he ever actually figured out what a cost benefit analysis was - he did not even know at the time what I was talking about and I am not sure that they ever went down that road. Looking at it perhaps because I tend to look at things as an Economist, rather than on any other light, looking at it from that perspective I have always said to myself well if we have to import so much water and bringing in an extra tourist must add something to the economy but in fact in order to arrive at what it adds to the economy I should deduct what the economy has to bring in from outside as a result of bringing in the tourists. And then find out the marginal addition to the generation of wealth in Gibraltar produced by investing money in increasing tourism. Now, I am not sure that that has been done or that that it is intended but I would certainly advise the Government to do it

although it seems to run contrary to in fact there on public statements that they are now committed to a massive injection of resources into expanding this area. But we must not forget that the Minister for Labour earlier on in the House, today, talked about the reluctance of Gibraltarians moving into the catering industry. Well we certainly do not want to create jobs - I will be giving way in a moment -

HON H J. ZAMMITT:

I must say that I accept his argument because I know and one knows the way that he feels about tourism and as he has always felt. I can say that tourism today is generating £11.2m to the economy after which £1.2m comes directly to Government coffers. That is at our low ebb as we are today on tourism. So it is now possible the Honourable Member may forget that when he asked the Honourable Mr Serfaty for those kind of figures we did not have a Statistics Office as such and today we are able to get I dare say with more or less accuracy that kind of figure and I agree entirely with the Honourable Member as I said because I do know that he has even questioned and in fact have to say, because he is quite open about it and honest about it, that he has voted against measures such as the subsidy of water to hotels and things like that because the argument is a very logical socialistic argument, so I wouldn't dispute that.

HON J BOSSANO:

Well, I mean apart from the ideological context of the argument, the point is Mr Speaker as I think by making reference to the subsidy to water the Honourable Member has made a little point. He would bring in more tourists and bringing in more tourists means we import more food. We import an extra tanker of water, we import labour, we provide accommodation for the labour, let us not then knock out all the things that we have to bring in, before we arrive at the effect because right you may have an increase in GNP of so much, but I mean the net result is what, now I am not saying that tourism does not provide anything, that would be nonsense, it is money freshly to provide something but what I am saying is that in using resources and I won again in taking decision on how to use resources again one must make certain assumptions. If you have got a certain resource which is useless but which you had no other use, then clearly it requires very little return to make it worthwhile using it in a particular way. If it has alternative uses then the rational thing to do is to see which of the alternative uses is the one that produces most. Now, there may be certain assets in Gibraltar which have got little potential use other than for tourism, it could be argued that the same is true of a dockyard, I mean the reason why the first thing one thinks about

in the closure of a Naval Dockyard is a Commercial Dockyard is not because we need an expert to tell us because it is manifestly obvious that the most appropriate use of a dry dock is to dock ships that is the most obvious and the first thing you think about, without any expert telling you that, now you have to decide whether using £28m for the British Government's aid in that particular way is the most sensible way in which to use it. I would certainly dispute that it is. I have no doubt about that at all and I am prepared to put arguments why I think it is. And I think the arguments are based on rational analysis and economics. Now I don't expect, for example, Messrs Appledore to agree with me, but of course why should they agree with me because they are not looking at it from the angle that I am looking at it anymore than I would expect any hotel owner to agree with an agreement of mine that if we were to have to use £100,000 to subsidise water consumption by tourists in hotels there are better ways of using that money. I don't expect any hotel owner to agree with me on that, because he is going to find that perhaps because the water is subsidised he is then able to produce a more competitive price and therefore he is able to increase the capacity utilisation of the hotel and therefore the return on his investment is better. If he had to pay the £100,000 himself then the economics of the operation will be totally different. So, but I expect people to understand at least the thrust and the nature of the argument that I am putting. So therefore I am saying Mr Speaker, that I myself have got serious doubts about whether there is a potential in Gibraltar for a mass tourist market, I have serious doubts about the wisdom of devoting our resources, scarce as they are, to doing that unless we have done a very thorough job about whether we are getting the best possible return by using our resources in that particular way as opposed to another way and I would put to members in the House who have seen the report the same as I have done, that that line of argument seems to be supported by the views of the experts that the Government has engaged as consultants who looked at alternatives, other than commercialisation and came to the conclusion that the tourist potential of Gibraltar with a closed frontier was very limited. I nevertheless think that the motion is accurate and I think in fact for some reason that hasn't been explained as far as I know there seems to have been an improvement in the tourist attraction of Gibraltar after 1978 when a report was produced by the Economist Intelligence Unit for operators in the tourist industry, which showed that the market came to a bottom in 1977 and then it went up again, until about 1980 and then it started coming down in 1981. Now, as far as I know, nobody in Gibraltar did anything very much in that period to get the tourists to come. I mean they were doing the same thing in 1977, as they were doing in 1979 and they were doing in 1981. So, in fact, it happens you know and I think perhaps it might

not be amiss to find out whether in fact it happened through a change in the competition that we were facing or the facts that there was an increase in tourism in that year, but the report of the Economist Intelligence Unit in 1978 pointed out in fact that Gibraltar at the time, was having a declining share of an increasing market. I think the 1978 Report which to some extent was coloured by the fact that it was produced and paid for by the people in the industry here wanted to make a case for it, apart from that, I think there were a number of important statistics contained in it. One was that tourism abroad was increasing, there has been a post war trend in UK for UK tourists to go abroad rather than take their holidays in UK and that that was still on the increase in the late 1970's it might have altered in recent years, with the serious unemployment problem that the UK is facing. People may be taking for all I know holidays at home rather than abroad, but at the time it was certainly increasing very fast and Gibraltar's share was declining, because while the number of British tourists going abroad was going up, the numbers coming to Gibraltar was coming down, so in fact our share was declining in absolute terms, not just relatively. But at the same time against what we were saying about attracting tourism here, or rather what the report was saying, the statistics showed that the percentage coming to Mediterranean resorts was declining. Now after that, I happen to know, that for example, the tourists industry in Malta took off and it went through a boom, but that in the last 18 months they have been going through a very bad patch. Now obviously, as happens here, the Opposition there blamed Mintoff for it. One doesn't know whether it is true or not. But I mean certainly it is put as an argument that, you know, the internal political wrangles in Malta have been a deterrent and the state of the economy and the measures that they have taken with the Maltese pound and so on. Now I would have thought that if we look at Gibraltar as a resort in the Mediterranean with a background of the widespread use of the English language, familiarity with their currency and so on, the two obvious resorts competing with us are Cyprus and Malta and the internal problem of Cyprus and Malta should have given us an opportunity of capturing part of the market that they lost and there I think we missed the boat. I think there, was a clearly definable potential market because they were both expensive resorts, they were not cheap, I mean I think it is easier to attract somebody to Gibraltar that might have gone to Cyprus or Malta, than to attract somebody to Gibraltar who might have gone to the Costa del Sol because the price differentials are narrower and because the attraction, I think, of Cyprus and Malta to the British tourists is that as well as being a Mediterranean resort it is it has a familiarity of the British background. There I feel is an area where perhaps the thrust should have been identified and I think, in fact, the only people who attempted anything like that were Exchange-Travel, who were in fact treating the

same resorts and when they found that some of their clients were scared to go to one of the other places they tried to channel them to Gibraltar. Anyway, Mr Speaker this is really all I want to say on the motion.

MR SPEAKER:

Are there any other contributors and then we will call on the mover to reply.

HON B PEREZ:

I think I want to make my contribution rather short on this particular occasion but I think there are a number of points which I would like to put to the House. First of all I think, if anything is clear at all, is that there can be no doubt whatsoever following this particular motion presented in the House, that not only has my Honourable Colleague Mr Zammitt shown that he has a very keen interest and he is in fact very concerned with tourism, not only in his contribution to the motion but that his concern has gone back to quite some time as far as tourism is concerned. There can be no doubt at all that the Government is very conscious of the role that tourism has played in our economy. The other point that I think is also clear Mr Speaker, is that to a very large extent here in Gibraltar there is very little control that one can exercise to try and determine the number of people that actually come to Gibraltar. I think we are limited, I think some of the points have been made by the previous speaker, Mr Bossano, because we have to realise we have certain limitations in Gibraltar through space, we cannot offer tourists golf courses, we cannot offer tourists large swimming pools and we are of course limited to our size and as to our touristic potentials. There can be no doubt about that. But on the other hand I think what has in fact been made very clear by the Minister concerned, is that in what we have certain advantages and that he and his department, and in fact the Government, has been doing its utmost to in fact, to try and bring forward and to project. Gibraltar has advantages to offer to the tourists, I admit quite a large number of people mainly British tourists who have been in Gibraltar and they have been involved in conversations in which people even Gibraltarians have offered to take them over across the border and to offer them the golf courses and the swimming pools and that and in my presence, these British tourists who have been here say no we are not interested in that, we have come to Gibraltar and we want to see Gibraltar we are not interested in playing golf. If we were we would have gone to Spain. So I think to a large extent, my Honourable Colleague and his department have succeeded in that. The people who come to Gibraltar come to Gibraltar

because of what Gibraltar can offer, whether its the historical value, whether it is because we are British, whether it means seeing the British Bobby out in the streets, or whatever it is, I think the tourist office have succeeded to a very large extent. Because whether we like it or not, there are a very large amount of people who come to Gibraltar. It may well be, that we would like that figure to treble, but if one cannot achieve that, does that give cause, does that give reasons to my Honourable Friend Mr Peliza to come to this House and condemn the Minister of Tourism he is not justified in doing that, because the numbers and the statistics speak for themselves Mr Speaker. Another point which has been made in this motion, is that all of us in Gibraltar, being conscious of the importance of tourism, that tourism plays in our economy, we all have to try and pull together and help. We have heard in the House, that the Administrative Secretary was in fact requested by my Honourable Friend Mr Zammitt to come and help to coordinate Government departments, and we hope that this will have an even more successful effect than in the past. I think the whole of Gibraltar must contribute, I think most Gibraltarians want to contribute unfortunately, I don't think the message which one is trying to portray of contribution, of putting one's own little grain on to the pile, has not sunk through to Members of the Opposition. I am sorry to say that, particularly to my good friend the Honourable Major Peliza, because all that I can see that he is attempting to do in putting this motion to the House, is really electioneering. I resent to say that, but I honestly believe that that is the main intention behind the motion. I have not heard him give one single constructive suggestion as to what the Honourable Minister, or what the Government should do as far as improving tourism is concerned. I sincerely, Mr Speaker, I sincerely regret having to say that but he spoke I think for over 45 minutes, in moving the motion, and all he did, really, was to condemn my Honourable Friend Mr Zammitt. That is all he did. He didn't have one single good word to say either about Mr Zammitt or about the Government as far as tourism is concerned. That to me, I do not consider that Mr Speaker, of trying to put one's little grain to the pile and to try and improve Gibraltar either touristically or to improve tourism in Gibraltar. I think this is regrettable. I honestly question what his real motives are in bringing the motion to the House. I mean, what is the Honourable and Gallant Member trying to do, what is he trying to achieve in bringing this particular motion to the House. And after four years being shadow to my Honourable Friend and not bringing any other motion before. I recall one particular motion which he brought on the amendment in which in fact my Honourable Friend due to personal reasons, was unable to be in the House and I had to speak on the amendment. But apart from that and apart from a few questions as to the state of the toilets at Waterport and the state of the toilets at

Market Place, I do not honestly recall any constructive suggestions or any reasonable contribution made by my Honourable Friend Mr Peliza as to tourism in Gibraltar. And as I say Mr Speaker, I honestly regret that. And I say that sincerely. I have heard Mr Bossano use a certain phrase and I will use that when he says is the idea of the motion or I think he said I am not prepared to support the motion on the basis that I am trying to buy votes under false pretences. I think those were the exact words used, I think I see him nodding, buy votes under false pretences. What is the mover of the motion trying to say? That he can do better if he was Minister for Tourism? Which brings me to another point. The only thing that I recall the mover of the motion saying over the last four years, is that the Government want to make better use of the Tourist Office in London. In fairness, I admit that that is what I honestly recall him saying during the last four years. Well, I haven't, Mr Speaker, I haven't yet said that I agree that that is the constructive suggestion. What I am saying is that that is my recollection. The only thing that I honestly recall, that the mover of this motion has brought to the House time and time again. Extend the use of the London Tourist Office, over and over again, he has used that. Which again brings me to my original question. What is the real motive behind the mover in bringing the motion to the House? In Spanish we say Mr Speaker, "se esta buscando la camita" is he looking for a bed to lay on following the next general elections, is it that because he lives in England, he would like to see a London Tourist Office used to a larger extent so that he can tell the Electorate at the elections, I am your man in London, not only for writing letters to MP's, which is done on certain occasions, willing to train himself or is he, is it his idea to portraying himself as the Gibraltar Ambassador in London by extending the use of the London Tourist Office. Let us be sincere and let us be honest about this Mr Speaker. I am sorry because he is a good friend of mine, but I cannot see any other motive after listening very carefully to his long speech which took nearly one hour, we cannot see any other real motive behind moving this motion, other than electioneering! and trying to prepare his bed to lay on for the elections, as the Gibraltar Ambassador in London. I think it is a ploy and I am sorry to say for him, as a good friend of mine, that it has backfired on him due to the excellent contribution of my Honourable Friend Mr Zammit. An excellent contribution by the Minister. Not only did he defend the Government but he clearly and what a pity, that the whole of Gibraltar could not have listened to the speech of my Honourable Friend Mr Zammit, in reply to the Honourable Mr Peliza's. What a pity that we didn't have broadcasting of the House.

MR SPEAKER:

Order, order.

HON B PEREZ:

What a pity, Mr Speaker because if that had been the case none of them apart from Mr Bossano would have had a chance of being elected in the next House of Assembly. I think Mr Speaker, Mr Peliza, and unfortunately his motion has backfired on him which brought, let me say straight away, and it was quite obvious to me anyway, that the Honourable Leader of the Opposition would straight away after the adjournment, make a contribution to this debate. Of course he has to make a contribution. But I want to try and honestly attempt with some home truths, Mr Speaker, to also show up the Leader of the Opposition for the contribution that he has made and for what his views have been on certain matters of tourism in Gibraltar. And I hope I succeed, in fact I am convinced, that when one goes with the truth and nothing else but the truth, you cannot go wrong. And that is what I am about to say now as far as the Honourable the Leader of the Opposition is concerned. Mr Speaker, there are in my view two fundamental matters as far as tourism is concerned. One thing to improve the whole product we have doubt about that, cleanliness and all that I agree with, and I think to a large extent my Honourable Friend not only is he conscious of that, he has taken certain steps to try and improve the home product but of course he is restricted there is no doubt about that both financially and due to the size of Gibraltar, that is clear. There is also to consider the points that have been made as far as advertising expenses are concerned. The point made by my Honourable Friend Mr Bossano, that it doesn't necessarily mean that the more money you spend in advertising, the larger or the bigger the number of tourists that will come to Gibraltar, that does not in fact follow. And of course you have to carry out an analysis, which has already been made, as to how much the Government can spend or can spend with taxpayers money to see how many people it would attract to Gibraltar and how much money those tourists will in fact spend, money that will be generated into the economy. And now I come to the crux of the matter, as far as the Leader of the Opposition is concerned. Air communications is of fundamental importance to Gibraltar's tourism potential and Mr Speaker, how can the Leader of the Opposition have the audacity to stand up in this House and try and defend anything the Honourable Major Peliza said and criticise my Honourable Colleague Mr Zammit and the Government as a whole, when he in fact should have the guts to say in this House that he never supported Intasun to come to Gibraltar.

MR SPEAKER:

No, no.

HON P J ISOLA:

If the Honourable Member will give way.

MR SPEAKER:

Order, order.

HON P J ISOLA:

Of course not.

HON B PEREZ:

He never, Mr Speaker, and I can tell you that, he never wanted Air Europe and Intasun to come to Gibraltar. He wasn't in agreement because he was worried, he was worried, of the effect that it would have on the present carriers we have in Gibraltar.

MR SPEAKER:

No, that has discarded motives, the fact that he was against

HON J B PEREZ:

I know that of my own knowledge, Mr Speaker.

MR SPEAKER:

Fair enough.

HON P J ISOLA:

If the Honourable Minister will give way because he has said that I have opposed Intasun. That is not true. What I opposed and I thought in a confidential atmosphere of the advisory board, what I said was that a schedule of additional scheduled service would not be viable for Gibraltar and I suggested that Intasun should bring charters to Gibraltar and I supported that. So it is untrue for the Minister to say that. And the Minutes of the meeting will show that.

HON B PEREZ:

Mr Speaker, all I can say is that following, what I knew about the Honourable of the Leader Opposition's view as to Air Europe's application, because I was the Government's spokesman for the Government representative at the CAA, when they made their application. I can tell you Mr Speaker, sincerely, that I had to go and see the Honourable and Gallant Major Peliza and I spoke to him to try and convince his leader to change his mind. I can tell you because I did speak to Major Peliza myself and I know that the Honourable and Gallant mover of the motion had to go and speak to his leader to try and convince him that it would be a good thing for Gibraltar for Air Europe to come because we knew of the weight of Intasun. So this is why I say how can he have the cheek and the audacity to come to the House and to speak and to try and bring down the Government as far as tourism is concerned. How can he do that, Mr Speaker? What a shame, what a shame. So on those two vital points on which I think I honestly had to make, Mr Speaker, I now come to the contribution of the Honourable Minister for Tourism. I think the Government's role as far as tourism is concerned is one that one has to proceed cautiously and we have to see how much of taxpayer's money one can invest. It is a matter of judgement and I honestly feel that as far as the Minister is concerned he is doing all that is humanly possible, there is a depression, a worldwide depression as far as tourism is concerned and I honestly feel Gibraltar is not doing as badly as other resorts are doing worldwide, of course one would like Gibraltar tourism to boom. The other point, that I think, I have to make is that we have to consider the points that have been made as far as Gibraltar's tourism is in fact fighting against, the closed frontier, the strength of the pound, the Lisbon Agreement that has been made, the question of costs in Gibraltar and again one must throw the comparison with Malta and Cyprus, so all in all, I think I know this will not be possible, but perhaps the most honourable thing for my honourable friend to do Mr Peliza, I think you ought to withdraw the motion. I sincerely think you ought to withdraw the motion, following the contribution and following the arguments the most cogent arguments that have been put by the Minister concerned. I ask, I plead with the Honourable and Gallant Major not to take any notice of the comments which have been made by the Leader of the Opposition, because I honestly believe, he has made those comments to try and protect the mover of the motion following the onslaught which the mover got from the Minister concerned. I sincerely hope he thinks about that, Mr Speaker.

HON A J HAYNES:

Mr Speaker, I would like perhaps to start by replying briefly to some of the points made by the Honourable Minister for Education

and Housing and Medical and Health Services, the Hon Mr Perez. His first remarks regarding the Leader of the Opposition's view on Intasun in the context of travel to Gibraltar by plane. For a start, it cannot be stressed too lightly that that was a confidential group, the Advisory Board, I would have thought the Aviation body were confidential in their views. Certainly, I would take it as if members of the Public Accounts Committee were to start talking in the street about what the members have discussed amongst themselves. I mean it would be a great prejudice to the only instances of cooperation that we have in a Parliamentary function on a Select Committee basis and I think that the Minister to make known such a matter regardless of whether they can or cannot be defended is a grievous error, he has been tempted into doing it for the mere promise of a little political point. Which is exactly what he is accusing us of, with electioneering, and I heard an aside by the Chief Minister - but everybody knows. Everybody knows because the Chief Minister has told them, I suppose. In any event, now that it has been made public, Mr Speaker, the Air Advisory Board were considering the application by Intasun to bring a scheduled air service to Gibraltar, Air Europe. The matter was rejected on appeal to the Civil Aviation Authority, not a Board to be taken lightly, a body of experts, who in fact, more or less upheld the views of the Honourable Leader of the Opposition. Nothing personal against Intasun but did it make economic sense, or were they promises, empty promises, which could not be fulfilled. It is also of interest to know, Mr Speaker, that the Civil Aviation Authority found as a matter of fact that to allow the Air Europe enterprise would also be a serious jeopardy to Exchange Travel. A firm which has been supporting Gibraltar for over fifteen years, because there was not capacity or room in their service to allow for more scheduled services, unless the infrastructure in Gibraltar is improved. Furthermore, Mr Speaker, the matter was then taken on appeal once more to the Minister for Trade and again rejected. So it is not a matter of the Leader of the Opposition putting a spoke on the wheel, but of his dissenting voice being upheld by the experts at all levels and even if presuming they were all wrong, Mr Speaker, what are we to go by. Intasun comes out, makes some promises and within a month they haven't got any planes. Planes, Mr Speaker, the exact point the Honourable Member was trying to put forward. If one turns however, because at this stage I will try to avoid the heat and the personal animosity that has been shown in this debate so far and turn just to the motion before the House, rather like my Honourable Colleague Mr Bossano. We are stating that this House holds the Government responsible for not taking sufficient effective action. It is palpably clear to all those who have any dealings with tourism in Gibraltar, who have any form of our dependancy connection or whatever on tourism that things are not going well. In fact

things are gradually getting worse. I don't know if we can attribute the decline to the appointment of the present Minister of Tourism but certainly datewise it wouldn't be far off. This has not been suddenly discovered by the Opposition today. It has been brought up on a number of occasions and the last one, again in May of this year, a mere few months ago, my Honourable Colleague Mr Scott brought up the matter of the dirt, filth in the streets, in this connection. And the first point that I would like to tackle Mr Speaker, sufficient effective action in my view that we cannot even produce a clean product, we are not making any efforts whatsoever. It is disgusting Mr Speaker, to see the streets of Gibraltar, especially Main Street and subsidiaries of Main Street. We have had letters in the Chronicle, we don't know how many letters from tourists saying sorry Gibraltar, you are very dirty. We have had it for years. And we are getting it from local people also, writing to the press. And of course one assumes that they are right, just a tip of the iceberg, they represent what the whole host of the silent majority feel on the matter. We have had a committee of rubbish, I don't know how many years now, they have not collected any rubbish. The disgusting streets Mr Speaker, are there for all to see. Apparently there isn't any more industrial dispute, but the dog excrement is there for you to trip over or stand on at your convenience. It is disgusting, Mr Speaker. And yet, they talk of having done everything within their power. That is even before we talk about the product itself. We have seen remarkably few projects to improve the tourist potential of Gibraltar I know that Gibraltar was never, until the problems with Spain started, considered a tourist centre. I don't claim to be as well informed or as experienced in this matter as are the Chief Minister and the Leader of the Opposition who have been here much longer than I. But I remember hearing since I was much younger, that Gibraltar was always a fortress and the tourism was in Spain. We have had time against us as we have had on housing. We have had a long time now at least 10 years, in which tourism has been the growing economy, the growing part of our economy, the part which obviously requires a tremendous interest and importance. And even more so, Mr Speaker, since the announcement of the closure of the Dockyard. The viable alternative of economy must be tourism, we were told as a result of the first PEIDA Report that a commercial yard is not the answer. We were not given very great promises in terms of economic potential in the commercial yard. We have been told for the last 3 to 4 years that tourism must be the growth area and there has been no growth, Mr Speaker, there has been recession. How can the Government in the face of those facts, over the last four years, say that they have given the matter effective and sufficient either consideration or work. Instead, Mr Speaker, they refer rather sarcastically again out of context to matters stated in 1976-75, what does that matter, Mr Speaker?

That is the kind spurious arguments that you would expect from someone who cannot answer the case in point. And there are a number of areas which still require serious consideration, not only Mr Speaker, not all the projects in mind are of a very expensive nature. If I may bring one point which we brought up on this side of the House at least for two consecutive years it is the Monkey Park. Maybe that the ape park because apes make you laugh, but it is not, it is a very serious matter. There is nothing arranged today for mass tourism to see the apes. There is one tiny row, three cars and it is blocked. And there is no walk, there is very little organisation. Some people came along, made a report and said all you do is make a park area out of the land which is there and not used for housing, it is not being used for anything. You have the nucleus for employment because you have a restaurant, you have a tourist store, you have a watchman, the unemployment and you have a much larger area where you can lure many more tourists and therefore contribute something to the tourist potential product of Gibraltar. And it may also, Mr Speaker, serve as protection for the apes themselves. The apes will be grossly overfed if they are left within easy access to tourists and as the tourists increase in numbers there could be some danger. But I would not like to digress onto this matter. Again, Mr Speaker, there is the question of Princess Lines. Princess Lines is what is normally known as the "jungle" is one of the most exciting places I have ever visited and I only saw it for the first time about three months ago, Mr Speaker. The work there to uncover that was undertaken not by the Gibraltar Government, but by our local Battalion. They have been given precious little support by the Government. And on top of that Mr Speaker, the Government, and certainly the Chief Minister must have known what it looked like, must have seen its potential and yet over the last 10 to 12 years an enormous track of land has been left as "the jungle". And that is what it is. A wasted opportunity. Caroline's Battery Mr Speaker is remarkable only for the litter. These are not areas or spots which are financial or capital intensive. We have had enough complaints about their lack of funds Mr Speaker. So we are looking at a project which is not necessarily expensive. There is the question of the Military museum, Mr Speaker. Gibraltar's military history is ironically the fortress image which was once against tourism, has now become one of the main bastions or hopes for tourism in the future. And not enough, Mr Speaker, has been done in that field. Mr Speaker, then we come to the way the Government treats tourists in Gibraltar. We had Mr Speaker, another motion, a general motion as regards those hydrofoil tourists that came to Gibraltar and were left stranded. That very sorry episode, Mr Speaker, was not one where the Government showed either sympathy or interest. And if I may briefly re-cap, Mr Speaker, what happened on that occasion.....

MR SPEAKER:

No, no, no. You can quote it as an example of the failure of the Government to look after tourists but let us not get involved in details.

HON A J HAYNES:

Well, Mr Speaker, our lack of tourists or interest really reflects that the Government will wash their hands, rather than take on the work that is required in improving the product. It is symptomatic also Mr Speaker, that that same lack of concern over the hydrofoil tourists, is reflected in the yacht berthing, reporting berths requirements. And the way the Government decided to deal with this matter. Yacht tourism Mr Speaker has been a very important financial source to Gibraltar and yet for the most part its here in spite of Government. They do things which are in their interest, in their interests to have a tidier bureaucratic system, not because it can induce more tourists to come Mr Speaker, but because it makes it easier for them to work out their loggings. And that Mr Speaker is not the right attitude. We haven't seen Mr Speaker, any concerted efforts by the Government to break the £50 Departure Tax applicable in Morocco. I would not be averse to see the Chief Minister going to Morocco. Well, Mr Speaker, in potential the product here in Gibraltar are second to none. It is rather like the governing parties ideologies they cover every single possible policy idea that they have, they draft them all, they always say we thought that years ago we have got that as part of our manifesto. We are still waiting for pedestrianisation, Mr Speaker. We are still waiting for housing for that matter, we are still waiting for everything they said they were going to do, Mr Speaker. Pedestrianisation, I think has something to do with the motion, Mr Speaker. We need to build the kind of infrastructure which will make possible a tourist expansion in Gibraltar. Without the infrastructure we can go nowhere. Without all these projects Government will never have the interest, they haven't got their backs into this, Mr Speaker, if they were convinced that these ideas, that these projects, would really have a material effect on the product, if they really knew in which direction to take Gibraltar, they would by now, I am sure, have taken these steps but they do not know what they want to take, they don't know therefore how to approach the matter. And this lack of an infrastructure is something which has been concerning us on this side of the House for some considerable time. And if I may state, in London in March last year when I went to lobby MP's on the "commercialisation issue", I informed them that when in those days the frontier was going to open on 28th of April, Mr Speaker, I said that commercialisation would according to the PEIDA Report review, be extremely difficult

if it was to coincide with the time when the frontier opened. Because when the frontier opens, Mr Speaker, when the frontier opens Government would require all the money, all the resources it has, for creating and building up the tourist infrastructure. We have had a reprieve, Mr Speaker, but there are no signs of anything being done to make the most of that, Mr Speaker, of that opportunity. There is no burgeoning infrastructure for tourism coming into Gibraltar today. All we have got, I think, is to improve the tourists potential in Gibraltar, Mr Speaker, is the promise of the new fountain at the Piazza, that is the only thing I can think of that the Government have done in these last four years. And that was not their idea and it is not their money, Mr Speaker. That is really its sum total of tourists for Gibraltar. The Piazza fountain inspired by the Opposition and the Museum Committee and paid for by Shell. That, Mr Speaker, was the Piazza which we never want to see again. Nor, Mr Speaker, have we seen any serious attempts to answer to the problem posed by the partial opening of the frontier. We all know it is difficult, Mr Speaker, when there are no customs facilities in Spain but we are receiving the visit of thousands of Spanish tourists, Mr Speaker, and we are missing the opportunity of getting some return on those visits. I know that ideas have been floated to the effect of making Gibraltar the cheapest watch selling town in the world. Small items can be passed through the frontiers; certainly we are concerned in improving the site seeing facilities so that when they stay they are not only going to go and see places but it should also be in our interests that sightseers have more things to see of that nature. We have people employed looking after these buildings and there are many buildings of architectural interest, historical military interests which are left unexploited. Which brings me onto another area, conservation is not just for its own sake, but in the interest of the tourist potential of Gibraltar as a whole. And we have got some very slow converts on the Government benches to conservationism, they are slow they are new, Mr Speaker, and they don't really know what it is all about. And so when we had Intasun here Intasun was telling us all about the sun, sex and sea potential and the Minister for Economic Development and Trade was telling us all about the conservation. And they got their lines crossed there, Mr Speaker.

HON A J CANEPA:

If the Honourable Member will give way. It was the Chief Planning Officer who did that. I didn't give them the talk, the Chief Planning Officer did.

HON A J HAYNES:

Well, Mr Speaker, I know it is reputed that Harry Goodman of

Intasun, stated or said of the Minister for Economic Development after he heard him expounding of the possibility of Gibraltar's potential for bird watching holidays, he said when we start selling bird-watching holidays you are not scraping the bottom of the barrel, you have reached the bottom of the barrel. I don't know how many bird-watchers have come to Gibraltar this year, Mr Speaker, but certainly we would not consider that the visit of bird-watchers to Gibraltar to be the kind of sufficient effective action taken by Government to improve tourism in Gibraltar. And, Mr Speaker, we also heard the Chief Minister saying that the size of the tapas didn't matter, and Harry Goodman said that everything was alright. That is not so, Mr Speaker. If we had the Honourable Mr Zammit, Minister for Tourism, who said that this has been you know the be all and end all of his life, he had finally got the big people coming. It wasn't him that brought them out, Mr Speaker, as far as I know. But anyway, he was trying to take full credit for bringing Intasun and 40, 60, 70 tourists and you would imagine what an opportunity in the very first night, Mr Speaker, they got it all wrong. And that is the kind of planning that we have got, Mr Speaker, they couldn't even cater for 40 people with all the management that Government have and the Chief Minister says that they were not appalled of course they would not tell the Chief Minister that but I was hearing it all the next day. Perhaps they didn't know I was in the Gibraltar Government, they were just grousing like mad. And then, Mr Speaker, we come on to the other question of the Honourable Mr Zammit's intervention, I shall come to some of the points he has made. He complains that the Honourable and Gallant Major Peliza hasn't gone to visit him in his office. I don't think that that has any effect, it doesn't mean anything, Mr Speaker, as far as I am aware the Honourable Gallant Major was meeting the people of the Tourist Board and trying to get the Honourable Member of Tourism to meet them. He has been seeing the people who count, Mr Speaker, not the Minister, he has been seeing the ones that matter, the ones that are doing something in Gibraltar. And he is trying to coax the Minister into meeting them himself. And if it was the yardstick, Mr Speaker, if it was the yardstick, to judge by, then what would the House make of the fact that in my own shadow Ministry in Housing, I have been in the Housing Department more than any of the three Ministers who have claimed to be Housing Ministers in the last three years.....

HON H J ZAMMITT:

Rubbish.

MR SPEAKER:

Order, order.

HON A J HAYNES:

More than you, more than your predecessor, more than.....

MR SPEAKER:

Order, order. You will speak to the Chair and not point at people.

HON P J ISOLA:

Mr Speaker, on a matter of order it was only about 2½ hours ago the Chief Minister was saying how his side of the House listened to us in complete silence. We've had eight interruptions in the course of this afternoon from honourable members opposite. Surely what is good for the goose is good for the gander, surely.

MR SPEAKER:

Order.

HON A J HAYNES:

I stand by my claim, Mr Speaker, that I went to the Department and I still go to the Department more than the Minister.

MR SPEAKER:

Order, order. We will have no interruptions.

HON A J HAYNES:

And now I come to the other remarkable debating point, remarkable. This thing about a close relationship commercialisation which is attributed to the Honourable and Gallant Major, well I think it is in fact to his credit, to have that kind of foresight and vision. They talk about electioneering Mr Speaker, this is just a preview the kind of thing we have had from the Honourable Mr Zammit is a preview of the kind of election campaign we can expect from them, Mr Speaker.

MR SPEAKER:

Yes, but.....

HON A J HAYNES:

It is character assassination.

MR SPEAKER:

No, we will not get involved in this.

HON A J HAYNES:

Thuggery.....putting the boot in.....

MR SPEAKER:

No, you will withdraw that statement.

HON A J HAYNES:

I withdraw it Mr Speaker. Are we going to have another campaign?

MR SPEAKER:

I have asked only that it is not relevant to the debate, what campaign we are going to have for the elections.

HON A J HAYNES:

I only seek to bring it in so far as Honourable Members on the other side have made more than one reference to the purpose behind this motion which is that of electioneering.

MR SPEAKER:

It is perfectly in order to refer to the general election as being a motivation of what is being said in the House, it is not in order to try and qualify the kind of campaign that one can expect. That is what I am calling out of order.

HON A J HAYNES:

Mr Speaker, they see it as electioneering, I interpret that to mean it is not fair to bring up the things that we do wrong. Of course it is fair, we are going to bring it up at elections, you can be damn sure. It is really saying that we are holding you to account. We are giving you now an opportunity before the elections, to hear what you have to say.

HON P J ISOLA:

Hear, hear.

MR SPEAKER:

Order, order, order. You shall speak to the Chair or you will discontinue your speech. It is one thing or the other. You can please yourself.

HON A J HAYNES:

I think it is in order, Mr Speaker.

MR SPEAKER:

It is in order to speak to the Chair not to the people across the House.

HON A J HAYNES:

I think it is in order to have a sense of account after a 4 year period. To try and put it off on the basis of electioneering. Well, Mr Speaker, if there is another meeting of the House I am glad to inform members opposite that I will be giving them the chance to defend their record on housing and let them call that electioneering. It is electioneering, Mr Speaker, because that is what our elections is going to be based on.

MR SPEAKER:

No, no, we are degenerating this debate. I am not going to have this. Either you have something to say which contributes to the debate or you just finish your speech. Please yourself.

HON A J HAYNES:

Well, Mr Speaker, we had another sorry debating point made by the Honourable Minister for Tourism, reimbursement for Honourable Members, Mr Speaker. They don't seem to take into account that the most important privilege which is accorded to him is not double the allowance of members opposite but is the opportunity to put things right. He has got the chance to do something and all he is complaining about, Mr Speaker, is that they are not getting enough money. That I think is a disgrace.

HON H J ZAMMITT:

On a point of order, I have not made reference that I am dissatisfied with the money I get. I said that I was paid and I went as far as saying reasonably well paid. I made reference that they were getting half of what I was getting and that the Honourable and Gallant Major Peliza was gallivanting in England drawing half my allowance and doing sweet funny adams for tourism.

MR SPEAKER:

You didn't say the last two words. I would have called you to order. You didn't say the last two words because if you had I would have called you to order.

HON A J HAYNES:

Well, Mr Speaker, I think that tourism is getting nothing like its money's worth from the members salary and all he does is complain that he cannot do anything about it and complain that he doesn't get enough money for it.

MR SPEAKER:

No, with respect, he has not done so in the House, and if that is what you are stating you must correct yourself. He has most certainly not said that.

HON A J HAYNES:

Well, Mr Speaker, I don't think I shall involve myself further in the remarkable intervention made by the outsider.

HON CHIEF MINISTER:

Mr Speaker, I would like to make a personal statement.

MR SPEAKER:

Most certainly.

HON CHIEF MINISTER:

It is completely untrue that I have had anything to do with the dissemination of the fact that everybody knows in Gibraltar that the Leader of the Opposition was against Intasun starting a service of some kind in the air communication. I have had nothing to do with it and the Honourable Member has said that and it is completely a lie.

HON A J HAYNES:

Mr Speaker, my own assumption is based on an aside by the Chief Minister but I am glad to hear that that is not the case.

HON P J ISOLA:

Mr Speaker, on making his personal statement, the Chief Minister

had in fact misrepresented the position, my position. I have never made any representations of any kind against Intasun coming to Gibraltar, what I dealt with in the Air Transport Advisory Board was an application by Air Europe to run a scheduled service to Gibraltar. As back-up to that application it was said that they would be bringing Intasun holidaymakers. My position was very clear. I did not consider the route to be capable of having an additional scheduled service but that Intasun if they were genuine in their efforts to come to Gibraltar, they should come by charter and I further, and I further said Mr Speaker, in that Air Transport Advisory Committee, that if a scheduled service was allowed for Air Europe it would be the end of Exchange Travel, as a charter operator, that had stood by Gibraltar for over 14 years, running charter services to Gibraltar and it was for that reason that I had reservations on the application. I also asked in that committee that there should be more discussion but that was overruled because of the urgency of the matter. I don't take any delights to say that the feelings that I expressed were in fact the substance of the judgement of the Civil Aviation Authority who had an opportunity to hear the Government.....

MR SPEAKER:

No, no, you are not.....

HON P J ISOLA:

And was also upheld by the Secretary of State for Trade and Industry.

MR SPEAKER:

Fair enough. Mr Canepa are you going to be long?

HON A J CANEPA:

Mr Speaker, it is now five to five.

MR SPEAKER:

Are you going to be long?

HON A J CANEPA:

At what time are you hoping to.....

MR SPEAKER:

I was hoping to have a short recess for tea and it makes no

difference now or in ten minutes time. But if you are going to be more than 10 minutes..

HON A J CANEPA:

I think I am going to be slightly more than 10 minutes perhaps.

MR SPEAKER:

I am going to have a very short recess for tea no more than a quarter of an hour..

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

HON A J CANEPA:

Mr Speaker, I listened with great interest to the personal statement which the Honourable Leader of the Opposition made as to the reason why he had not been able to support the Air Europe application. I think he said it was due to saturation on the route. Again, one other example of the inconsistency from Honourable Members opposite and in particular the Leader of the Opposition, in respect of the policy of tourism, in 1971 in May 1971, during the Budget, he was asking Mr Serfaty whether he did not consider and this was because Mr Serfaty was criticising the insufficient expenditure by the then Government on field sales and advertising, Mr Isola was asking Mr Serfaty and I quote: "Does he not consider -page 156 - does he not consider that the most vital factor in getting our tourists to Gibraltar is having proper and adequate air services". Again, yes of course when it comes to supporting an application for better adequate and better air services then we can adopt a different tack altogether. One thing is what we said in 1971 and another thing is what we say in 1983.

HON P J ISOLA:

Will the Minister give way.

HON A J CANEPA:

I am going to give way on this one occasion, I am not giving way again.

HON P J ISOLA:

I am very grateful to the Minister. I don't think he appreciates at all the difference between a schedule air service and charter operation. What I have always said and I

said it in the Select Committee on Air Communications if he would care to look at the report, that there has to be a balance between the scheduled and the charter services. The proposed application by Air Europe for a scheduled service because of the nature of it and the way it was intended to operate it, meant with almost certainty that the only other company running a charter service Exchange Travel, would be done out of business and its because the balance would have been upset that I objected, but I equally supported an application for a charter operation. I want to keep my position clear, because I have been consistent for about 15 years on this and the Minister may find quotations that may give a different impression, but I would ask him to read the report of the Select Committee on Air Communications on which I served under the Chairmanship of Mr Serfaty and my intervention throughout these years on the subject of Air Communications.

HON A J CANEPA:

And then we have the Honourable the Leader of the Opposition and the Honourable Shadow Minister for Tourism, who also shadows Postal Services complaining about the difficulties in getting air mail to Gibraltar, when it is the scheduled carriers who are supposed to be doing that, and who don't put on sufficient flights to Gibraltar, and then when somebody else is prepared to put on more scheduled flights and bring air mail more days of the week, that cannot be supported. Mr Speaker, I think we have seen today in this House, one of the most weak and pathetic performances from the Opposition in the last four years. We have Major Peliza, being caught with his pants down by my Honourable colleague Mr Zammitt, and we have had Mr Isola trying to bail him out in his usual bluff manner and then we have the weakest, most pathetic performance of them all from Mr Haynes rambling on from one inanity to another as one point or other happens to occur to him without any rhyme or reason, no cohesion in his speech, lowering the whole tone, of what until then, I thought had been a pretty constructive and a pretty good debate. I am now beginning to understand Mr Speaker, why Major Peliza wants an index for Hansard, I think it is to enable him to check on all the contradictions that he has been making in this House since 1969. Mr Zammitt today has given him a beating, the like of which I certainly haven't seen in nearly twelve years in this House, but Mr Speaker, if you spit vertically upwards into the air often enough, it falls on your face. That is what has happened to Major Peliza. Major Peliza in this House speaks on everything under the sun. I am amazed how he can get up on every subject and have his say and the Honourable Mr Haynes is beginning to do the same. They are experts on virtually everything, Mr Speaker, I don't dare get up and speak on subjects about which I know little or next to nothing, but they are quite happy, have their say, on anything

at all. In the case of Major Peliza, I am now sure that I know what the reason is why he does that, he does that to get coverage in the media, because the more often that he stands to speak on whatever it is, on any piece of legislation, he knows something, he has got a certain point to make, and the more often he does that, the more often he will get mentioned on television and the more the public thinks that he is making a contribution to political life in Gibraltar. The Honourable Mr Haynes is doing something similar, his view is, it is better to get talked about, than not to be talked about, as Oscar Wilde said, "I start getting worried when they don't talk about me" and that is a fact that Mr Haynes is adopting, I think he is going to be successful. I have a feeling that Mr Haynes will do relatively better in the next general elections, than he did in the last one, and that would cause problems for Members opposite, because Mr Haynes is ambitious. Mr Haynes and Major Peliza haven't quite made up their minds whether trade promotions are an important aspect of the marketing of tourism or not. Mr Haynes has scoffed at the number of occasions that the Honourable Mr Zammitt has been on trade promotions in the United Kingdom. He describes the man's jollies, the Honourable Major Peliza consistently on this occasion has been pressing for more trade promotions, because he considers that trade promotions are important. I would like one or the other of them to tell me who is the official party spokesman for tourism and when they have anything to say on tourism, are they speaking on their own behalf or are they promulgating, are they stipulating what is DPBG party policy on the matter in their speech. I haven't given way Mr Speaker, I don't propose to do so. What has happened today Mr Speaker is, that Horace Zammitt, has proved that he is no longer fair game for the Opposition, who has been indulging in the sport of Zammitt bashing for far too long. I remember the Honourable Mr Tony Loddo, who is not here today when Mr Zammitt was appointed Minister for Tourism, because he had been acting for a while, making a remark to the effect, Zammitt is now going to be let loose on tourism. Well, Mr Speaker, it has all backfired, because he has confounded them all today in a true major tour de force, not the minor tour de force that we have from the Major opposite but a real major tour de force. A well researched speech, well put together, full of relevance and not just vindicating himself and his party, but giving the lie to the empty, fatuous, hypocritical apology for what cannot even be termed a policy in particular to Senior Members of the Opposition opposite. I heard during the course of this House, one or two references on some Government measures that have been adopted for other reasons to the fact that these were tantamount to electioneering by the Government. I think it is Major Peliza who has been proved today to be doing precisely that. He has shown very little interest, very little real interest over the years on what has been going on in his shadow field. Other than when he descends upon us like Moses

from Mount Sinai, only that Moses had to, I don't think that they had aeronautical means of travelling in those days like he has. Descends upon us, like a good tourist boosting our good tourist figures of arrivals, no doubt, and betraying that opportunism which has backfired on him today. I think when the Honourable Leader of the Opposition four years ago, shortly after February 1980, when he had to allocate Shadow Ministries I think he had a real problem. He must have asked himself what on earth am I going to do with Bob Peliza, there he is in London, what do I give him to shadow. I cannot give him Public Works, I cannot give him Labour and Social Security, I cannot give him Housing, so what do I give him. And Mr Peter Isola had the brilliant idea, ah, we give him tourism and then he can be shadowing trade promotions, virtually on an internal trade promotion in the United Kingdom and as the bulk of our tourism comes from the UK, we can justify him there because he is doing a good job there for tourism; just like he does a good job with Members of Parliament by writing letters to them which could also be written from Gibraltar, because letters can be written from Gibraltar and you don't have to live in London to write letters to MPs. I challenge the Honourable Members opposite, Mr Speaker, if they seriously consider themselves as an alternative Government to tell the public, to tell the people of Gibraltar what Ministry Major Peliza is going to receive if they are elected to govern. Tourism again? And then as I say, he can stay over there and he can have a constant trade promotion, and then just before and just after meetings of the House of Assembly, he could come over and attend once in a while a meeting of Council of Ministers and no doubt they will find some excuse to justify what marvellous contributions he would be making to public life. Let them tell the people about that Mr Speaker, or else of course, the alternative is that he should pack his bags, reintegrate himself with Gibraltar and then face the music constantly like we are having to do here in Gibraltar day in and day out facing our constituencies in the very energetic manner which the Honourable the Leader of the Opposition has referred to. Fortunately Mr Speaker, there is little likelihood of that happening, I think the Opposition lacks credibility, and I don't think that anybody seriously in their senses can visualise them as an alternative Government. All that they have achieved in four years has been to polarise politics in Gibraltar in a manner which has been unknown here for about thirty years. The Leader of the Opposition naturally tried to bail Major Peliza out. There is no doubt about Mr Isola being a good advocate, I will say that for him. He spoke about the lack of coordination that there was between the Minister for Tourism and the Tourist Industry. I have had meetings myself with the Minister for Tourism in the last two years or so with various groups in the Tourist Industry and I am frankly amazed at the wide diversity of views that there is

amongst people in the Tourist Industry about, first of all what are the problems of tourism what are the questions, I don't think they agree on the questions, let alone on the answers. What needs to be done to improve the tourist product and how more tourists could be attracted to Gibraltar. I am frankly amazed, no two people that one speaks to, who are involved in the tourist industry seem to have the same view about what needs to be done. Some people say the military aspects of Gibraltar are important like the Honourable Mr Haynes. The military history of Gibraltar, I tend to agree with him, I would have thought that Gibraltar had something unique to offer, along comes an expert, the Director of Intasun, Mr Goodman, nonsense, rubbish, sex, sun and what is the other thing sea, that is what matters, but somebody else from Both Worlds like Mr Sam Alper will tell you, history, that is very important, military museum, conservationist and dinners and luncheons are arranged so that we can't talk about it, but Mr Goodman doesn't agree. Mr Solomon Serruya says something completely different, Mr Serruya is a prophet, he says something completely different and no one seems to agree. I am glad, I can tell the Honourable Members that I am not Minister for Tourism because I think people would be driving me round the bend and I don't like to be driven round the bend. What I am confirming Mr Speaker, is that there are different views amongst people intimately involved in the tourist industry about what the Government's policy on tourism ought to be. The Government policy is the one that has been expounded by my Honourable colleague today in a clearer manner than anybody has done since the time of Mr Serfaty. Mr Isola challenged that there had been any increase in tourist expenditure by this Government. Where is it stated he says, not in the estimates, whereupon he compares the figures, the revised figures of 1982/83 and the approved figure for 1983/84, conveniently forgetting that we brought to the House a sizeable supplementary estimate during the financial year 82/83 in order to launch a winter campaign because of the disappointment of the non-opening of the frontier and we lost the winter campaign and we came here for supplementary expenditure. On a once and for all, yes a winter campaign in 1982, you have a short memory, but I don't. That is why the revised estimates for 82/83 is higher because it was a one and for all to a winter campaign especially laid on, but if you examine tourist expenditure over the years there can be no doubt that the increase has been very considerable and 98% in the last four years as the Honourable Member spoke and in comparing one year with another, I don't think it is correct to speak about, to take a proportion. What is a proportion of tourist expenditure in the overall budget because, for instance, in any particular year you might have to spend, like we have had to spend this year £800,000 on importation of water, and that distorts the picture. Or you might have, what we now find, that

the Consolidated Fund Charges today, which are over £4m are a far greater percentage of the overall budget than what they were 11 or 12 years ago and so the size of the budget is inflated and as a percentage of that, tourist expenditure may appear to have gone down, it is a smaller percentage of the budget, but there is another test that has to be made as to whether it has been increased or not and of course in those days I think it was the year that you were talking about 1971, the Honourable Member opposite, the Government of the Honourable Major Peliza had been able to transfer a huge sum in those days, like £350,000 of the Consolidated Fund into the Improvement and Development Fund, if we were able to do that today, we would have to be transferring over £4m, because it was 10% of the then budget, and because we are not able to do that, what is happening is that we have a greater borrowing commitment than in the past, so you have huge Consolidated Fund Charges and that is why I think that it is not realistic to take the proportion of the total budget. The other way of looking at it is this, in 1972 the Government of the Honourable Major Peliza were spending £106,000 in their tourist budget, now since then, the rate of inflation has been 367%, for what should you be spending today, so that in real terms you are spending no less on tourism than what you were then, you should be spending something of the order of £378,000. What in fact are we spending today, we are spending on tourism £650,000, 72% more than the figure which would give you the same rate of expenditure in real terms of tourism. Again look what can be done with statistics, but if inflation goes up by a certain figure over a period of time, and you are spending much more than what the rate of inflation is, I don't think anyone can deny that in real terms. You are putting more into marketing tourism, regardless on what has happened with Labour and Social Security, with the Public Works Department or with any other item or Head of Expenditure in the Government's budget.

HON P J ISOLA:

Parity would also have had an effect on statistics in this respect.

HON A J CANEPA:

Yes, parity has had two effects, parity has had an effect on the cost of living and parity has had an effect on inflating the overall budget of expenditure because wages and salaries have gone up enormously, naturally. So that is why... what might be an interesting calculation to make is to do away with all expenditure on wages and salaries and then find out, what are you spending on tourism as a percentage of the rest. That is a very difficult exercise to do, it is time consuming, but that is another way of looking at it. I am just saying that

there is not one simple way of looking at the matter. Now Mr Haynes, really the way he rambles on Mr Speaker. Princess Lines, little support from the Government. I think I saw an exchange of correspondence between Mr Featherstone and Mr Loddo, which really settled the matter. Mr Loddo was saying exactly the same thing in the columns of the Gibraltar Chronicle. And my Honourable Friend took him up on the matter, and what is more, I think there was a letter from the Commanding Officer of the Duke of Wellington's Regiment, clearly proving that they had had all the support that they needed from the Government. Unless the Honourable Member opposite is saying that Col Cumberledge was lying, or that somebody at pistol point got him to write a letter to the Chronicle, because we must not upset Mr Featherstone. Is that what he is suggesting.

HON A J HAYNES:

Well on the question of Princess Lines Mr Speaker, I was personally involved in this matter. I went to visit them at the time when work had been already in progress for about 2 or 3 months on clearing that area and they had not been visited at that time by any single Member of the Government. They had also just been vandalised Mr Speaker, the expensive railway system to remove the rubbish which they had been collecting had been vandalised. Up to that day, Mr Speaker they had not received one penny of support or one man of labour support. And that Mr Speaker is what I think is meant by not helping. If the Minister wants to call that anything else, he is free to do so.

HON A J CANEPA:

Mr Speaker, that is not correct. I think at that time the support that was being given was by way of removing the debris, by way of providing Public Works transport and labour in order to remove the debris. The vandalism that there has been in the Moorish Castle Estate area has not been caused by Government. It is not members of the Public Works Department that go there to vandalise the work of the Duke of Wellington. It is the general public and it is an area seriously prone to vandalism. Because we took over 3 married quarters from the Ministry of Defence and they were being seriously vandalised and we had to spend over £20,000 in putting them right, in spite of constant complaints to the police that there have been on the matter. But the vandalism is not caused by Government. What I am aware that the Dukes were seriously disappointed about was the lack of public support, not the lack of Government support, the lack of public support. But if the Honourable Member opposite is scared, has not got the guts to say that, then I will say it. The Dukes were disappointed about the lack of general response that there was to what they were doing, and in particular the extent to which their work was being undermined and frustrated by people

living in the vicinity of Moorish Castle Estate. That is the reality of the matter. And the motive, I don't know, whether it was just vandalism or whether it was sheer bloody mindedness, because some people were aggrieved that their chicken coops had been removed, I don't know. Yachting, he said that in spite of the Government, yachting has picked up. I don't think that that is true. Unless the world was discovered in 1980 when the Honourable Member opposite came on the scene. We, who have been in Government, have been able to witness at close hand the strenuous energetic efforts of Mr Serfaty, to see that Bayside Marina became a reality. I myself have given Sheppards Marina a considerable amount of support during the last 2 or 3 years, whenever they have approached me in order that they have been able to expand the facilities that they have there, including the reclamation of land which is taking place now and the hoist which they have set up and which is bringing in a lot of business to them and to the economy. As for our plans, the East-side Reclamation Scheme, what is supposed to go there if not a Yacht Marina amongst other things. And in our plans for the development of Queensway as the Honourable Member will be able to see shortly when the development brochure is produced he will see that there is provision there for yacht marinas, I don't think that there is any difference in approach. There is no difference in approach. Yachtsmen spend a lot of money and they are good for the economy, and I don't see that why bring up something on which there is a general agreement when you cannot even score a debating point, because what you are trying to say does not square up with the facts. The Marina is in fact a monument to the work of Mr Serfaty during his time as Minister for Economic Development, and to me anyone can challenge that and the faith in Gibraltar of the people who have put their money there, undoubtedly.

HON A J HAYNES:

Mr Speaker, I made no reference to Bayside Marina. I made reference to the Yacht Reporting Berth. The Minister has been asked a number of questions, as to the difficulties posed to incoming yachtsmen from Waterport Yacht Reporting Berth, and these are questions that the Minister will himself remember over the last few months, since the Waterport Yacht Reporting Berth was introduced, and it was to that that I referred to in my intervention specifically. To talk about Bayside is to be perfectly obtuse.

HON A J CANEPA:

He said in spite of lack of Government support, yachting is going ahead he said, and then he directed remarks about the Yacht Reporting Berth. I have been there on a number of

occasions. I make it my business to go there whenever I go to the Port and I ask people, and initially there were teething troubles, and I got people intimately involved in the world of shipping to write to me and let me know what those teething troubles were, and I think they have been smoothed out. I don't think that there are complaints about the Yacht Reporting Berth any longer, even though let me say it is not my direct responsibility, because it is mainly Immigration and Customs, for which I am not responsible there is a Port Boarding Officer, and it is a joint responsibility. He said that the Government has not plans on infrastructure, doing nothing about infrastructure. Well, what is the Queensway Development all about. Is it not about expansion of the tourist infrastructure, I mean I am not an expert on tourism, I only picked up the jargon recently. In the early years some of the younger Members of the House, were very amused by some of the tourist jargon talk of Shoulder Months and Attack and Marketing and so on, I mean if one is going to be Minister for Economic Development and once you are a number of years in this House, you learn about it, and I think I know what is meant by tourist infrastructure, and I think that that is what we are trying to do with Queensway, I think that that is what we tried to do with Alexandra and Napier Battery, when we put it out to tender for development as an hotel. I think that that is what we are trying to do with the controversial Parsons Lodge, whether people agree with it or not. We have tried to increase the size and improve the tourist infrastructure because it is important, and I come now to my conclusion. Why is it important, why do we attach importance to tourism perhaps today, far greater than in the past. And if there is somebody that I think that cannot be accused by Members Opposite of a lack of consistency of his philosophy of tourism, it is Mr Serfaty. I have heard him speak on both sides of the House and his message has always been the same. He has been a visionary in that respect about the importance of tourism, when a lot of people used to make fun of him, Members in this House in particular, because he was visionary and he was an optimist about the importance that he attached to tourism and there has been complete and utter consistency in the AACR policy on tourism as expounded by the chief spokesman. And Honourable Members can look through the Hansards and I don't think that they will find any lack of consistency between Mr Serfaty or between Mr Zammitt or what in happier days Mr Abecasis, used to say and what his policy was. But why today, more than ever in the past? First of all I think we were all somewhat surprised by the fact that in cold statistics the Input and Output Study carried out 2 or 3 years ago showed the enormous contributions, far greater than we were led to believe, which tourism makes to the economy. Secondly, of course the closure of the dockyard has made it abundantly clear in the

studies that have followed about diversification of the economy that it is tourism and the Finance Centre activities which appear to be the only two growth areas. And thirdly of course, the fact that prime sites, ideal for touristic orientated development will become available in the future. Sites, which we have always wanted, which Mr Serfaty has always been after, because in all the years that I was a Member of the Development and Planning Commission whenever we had meetings with MOD people, and he was Minister for Economic Development, he used to hammer away about the fact that the Western Seafront of Gibraltar, which was the prime area for touristic development full of Ministry of Defence Establishments, and when we got something we had to put a school there because we had nowhere else to put the school, and they only gave that, not because they knew that there was to be a school there, not for touristic development, you could not have it for that, it had to be for a school. So the Ministry of Defence have had this short sighted approach about the problems of the economy of Gibraltar and we have never had the sites that we needed, and now, because unfortunately of the closure of the frontier we are able in a not too distant future, I hope, to get our hands on sites which I am sure that Mr Serfaty, when he started his public life 30 years ago, would have loved to have been able to get his hands on it.

MR SPEAKER:

The closure of the dockyard.

HON A J CANEPA:

The closure of the dockyard, thank you, very grateful. The closure of the dockyard unfortunately, has brought these matters to a head. I think Mr Speaker, in our tourist policy we know where we want to go. We know what has to be done. But unfortunately, in Gibraltar it seems that there is confluence of forces acting at one and the same time, we are being hammered on all sides. The dockyard closes, there are problems with the frontier, Moroccans who were coming here and spending a lot of money in Main Street, they are also hitting hard. And I think that there is a limit which any Government, particularly a Government in a territory, the small size of Gibraltar, lacking the resources that we have there is a limit to what can be done. And, it is only because when things goes wrong that a scape goat has to be found, but of course the convenient thing is for everybody to jump on the band wagon and make the Government the scape goat. But I have no doubt that if this debate in the House today has shown anything, and we should all be grateful to the Honourable Major Peliza for the opportunity that he has given us to hammer him and hammer others

over the head, it has been to show the clarity of purpose and resolution that there is on the Government benches about the importance which tourism has for the economy and about the way ahead. Thank you Mr Speaker.

MR SPEAKER:

Are there any other contributors? I will then call on the mover to reply.

HON MAJOR R J PELIZA:

Mr Speaker, if the object of my bringing this motion to the House was to get people to talk about me for better or for worse, I must say I have succeeded, and if the Minister for Economic Development who was the last speaker, thought so, he has acted with childish naiveness, because he has been one of the greatest contributors in that way. In fact, Mr Speaker, if it weren't because they have brought ancient history into the debate, they would have had nothing to say. If it weren't because they had made personal attacks on something that has nothing to do with the motion, myself. The facts of the motions have not been tackled at all. The Minister has not disproved any of the facts presented in the motion, neither has the Chief Minister, nor has the Minister for Economic Development. They have not gone point by point of the motion and said, we are not responsible for tourism in Gibraltar, they have not said we have taken effective action to prevent industry suffering a very serious decline. They have not proved that the trade have not suffered seriously. That they have not done at all, Mr Speaker. They have not spoken on the motion, and in fact, if they have agreed to what I said before at the beginning, to accept the motion and let us go home that would have been a much better exercise. Because quite honestly, the points have not been debated at all. That is the fact of the situation. And if they were to be instead of politicians here a jury I have no doubt that that would be the verdict. A pity indeed that this has not been televised, a pity indeed that this has not been heard by wireless. And of course, if that is not so it is not the Opposition that has objected to that, it is the Chief Minister himself who deliberately has been putting off the day of televising and broadcasting the sessions of the House for the very good reasons because then the Government will be shown for what they are. That is the fact of the situation. Mr Speaker, with that preamble I would like now to go into the points that were raised by the different members. The message that came clear to me from the Minister for Tourism was the following; it is not true, we are not to blame, we can do nothing about it. That is the loud clear message that came from the Minister, right through his long and I think completely off the point intervention. He went to the extent of saying

that I was not listening because I was not using this thing. Let me tell him that I heard every word that he said. In fact, he became so excited, perhaps as a man who was guilty, so excited, and his voice went so loud that I could not use this thing. Otherwise I would have gone really deaf. And so, Mr Speaker, he can now be sure that I heard every word that he said. And if I am a little bit hard of hearing, perhaps hard of hearing, perhaps he should know why. I volunteered at the age of 18, Mr Speaker, as a Member of the Gibraltar Defence Force, a gunner, called out a day before the war, served for 20 years in the army, most of the time I was an instructor in gunnery and therefore Mr Speaker, I was all the time by the side of the gun, and as a result of that I now have what you call "gunner's ear". That unfortunately, is my situation, but it is certainly of my own making and I am afraid that I find difficulty perhaps he can put up with that. But let me tell him that on this occasion I heard everything entirely. He need not be worried that I am sick either. I can tell him that I run every day 4 or 5 miles. I can run from Penny House to the frontier and back, and I do that when I come here, and if he wants he can join me any day, and see who can do it better. So in that respect he can also be at ease, I am not sick, and hopefully, Mr Speaker, I will carry on being in this House. As to the other point that came recurring all the time that I was in Britain, I was never here, when I came I never went to his office, let me start by saying why I do not go to his office. I do not go to his office because I do not want to be identified with his position in Government in any way whatsoever. I do not want to be a bird of the same feather at all. It would destroy my image I think with the other people who come to me, to put the points about tourism, to see me walking into his office and having cups of tea with him, they might think we are in cahoots and that of course is the last thing that I am. What I do like and he does not, let me tell you that is that I go round to the people who matter, to the hotels to see the managers of the hotels, that is my business and that is what I do. And he should not expect me to come to his office at all, no matter how many times, perhaps he wants me to, perhaps that is the idea, perhaps he might say, but look he is coming, he knows all about it, he is doing nothing about it. No he cannot charge me in that way, because I am not, I am not interested and I will not go. As to questions, how many questions I have asked, I have asked many more questions than he has said, but it doesn't seem to have registered in him yet that the question about cleanliness and that is a province which obviously comes under the Minister for Public Works. They are just as important for tourism as if I ask him, but very cleverly he never puts those in the list, perhaps he doesn't realise, in fact that is not my job, Mr Speaker, if I were him, I would have kept going round Gibraltar every time, looked at those places that I have

questioned about and urge the Minister for Public Works to have it done properly. I remember, well it is still there, I have not looked this time, but Jumpers Bastion was a point that I kept asking the same question time and time again and it wasn't ever done. The other one is overlooking the Secretariat itself, I don't know whether that has been done. There was an old fridge lying there for ages. Well if it has been cleaned up now, it has taken about six months or more, Mr Speaker, and I pressed it every time I came to this House. That was the job, Mr Speaker, of the Minister for Tourism, if I had been him, particularly having been a Sergeant Major in my days, I would have made it a point of going round and seeing that my product was in proper order. So, Mr Speaker, if he wants to know what I do in the short time that I come here, I do many things, many more things than all the time that he is here apparently, because it is not a question of being in a place, it is a question of getting things done. Now to put the Minister of Economic Development at ease, perhaps in fact, it will not put him at ease. Let me tell him that if I am elected for Government, I will of course come to Gibraltar and that is when the Opposition would ask me to go back to England, in fact, I don't think they are very keen on having me here all the time, even now in the Opposition. Because if I am capable of stirring up what has been stirred up today here, the amount of talking that they have done simply because I come here once, every time there is a House of Assembly, imagine what would happen if I was here every day for 24 hours a day. Perhaps the Government wouldn't be on that side and then they would be afraid. Now let me tell you another thing, whatever the Minister for Tourism may think and the electors don't think so, I was elected, I left for England in 1972, unfortunately I had to do it. Very much against my wishes but it had to be done for reasons I think people generally know. I stood for election in 1976, because I thought it was my duty. I am not a quitter, therefore I thought I will stand for election, and if the people think that they do not want me they will not vote for me, if they think that I should remain in the House of Assembly, they will, they voted for me. That was for four years and then came the next elections Mr Speaker, and I stood again and I was elected again with more votes than six members of the Government, one of which was the Minister for Tourism. Now the cheek of standing up and talking the way he did after the elections had pronounced what they did on two occasions. No I will not give way, Mr Speaker, I will tell you why I won't give way. The Government had plenty of time to face the facts and answer the motion as they should have done. They have decided not to do so, they have gone round in circles, they have been looking at ancient history, I am not going to give them another opportunity now, they had their opportunity, so let me tell every Member of the Government I am not going to give way. Now, Mr Speaker, lets go into ancient history, it is not the first time, that some-

thing goes wrong and the Government is defenceless, the first thing they do is, they blame the IWBP. 1969 to 1972, that is in one breath. In the other breath you were no good, you were only there a little time and you were chucked out, but every-time there is something wrong twelve years later, IWBP. In this instance, they pick up the Hansard and they looked at it, it suits them to look. Perhaps if Mr Zammit had been there in those days, he would have seen what the discussion was all about. Mr Serfaty was completely obsessed with tourism. The MOD did not count. I remember a phrase that I used which I think annoys them very much particularly the Minister for Economic Development, that you should not bite the hand that feeds you. I didn't like that when I said it and the reason why I said it was because they were attacking all the time the MOD and the MOD, Mr Speaker, right from the beginning of the history of Gibraltar has been the provider for Gibraltar and today I still hope they never go. For two reasons. One is defence and the other one is the income that is coming out from them, so if they were to go, not only would we be penniless, but selling peanuts in the streets, but we would be defenceless and we would not last 24 hours. This is why I said and I repeat now, do not bite the hand that feeds you. That I think annoyed at the time those attacking MOD. In that debate that we were talking about, Mr Serfaty said no, no Dockyard, not important, MOD not important, we have got to turn this into a Monaco, find space for all sorts of things. I of course, realise that tourism was bringing an income and we wanted to keep it, but more important still as I have said before, we are in isolation, it was important to bring people from outside into Gibraltar to keep us in contact with the outside world. In that respect I said, we have got to look at tourists in a realistic way. And in that way I looked at it then, and in that way I look at it today. There has been no change at all in my policy. The fact remains, that whatever the Minister for Economic Development and Trade may juggle around with figures that we were spending more money percentage wise of the total estimates, that they are spending today. But that is not important. What happened in those two short years, no 2½ was it? We got off the ground two hotels, Holiday Inn started then and the other one is Ocean Heights. At the time when they closed the frontier and they stopped labour coming into Gibraltar and when I had to fight very very hard to get aid for Ocean Heights because they had not only closed the frontier, they had also withdrawn the ferry and the people who were going to put the money in were very reluctant, because they saw this as the end of the line. Anyway we managed to get the two hotels off the ground. In our time, in our very short time, how many hotels have been built since then by the person who was going to turn Gibraltar into a Monaco. How many, I can't think of one. So, Mr Serfaty who has this wonderful dream and his

successors and party who were going to turn Gibraltar into a Monaco have not put one brick on top of the other to produce another hotel. No I am not going to give way, I said so before. So, Mr Speaker, this is the great Monaco, the great dream of the AACR and even the Marina, if I may say so, even the Marina, and I suggest for the Minister for Economic Development and Trade to check this, was set down by the Planning Commission in our time. Thanks to Mr White, who had the courage to put money into the ventures without any aid whatsoever from the Government. Now, as to the Dockyard, no question about it Mr Speaker, I say so to this day, the Dockyard is the mainstay of our economy, if it goes, we are going to be in serious trouble, but in order, in order to be able to convince the other side that tourism should be seen in its true perspective and when I was forced to say "someday they will have to close the Dockyard", it is obvious that if that happens inevitably perhaps it would not have been closed if there had been another Government on that side. Let me say that because the Government is the one who has given in, not Gibraltar, not the Opposition, not the Unions, it is the Government of Gibraltar who have been acting in a way and have accepted the closure of the Dockyard, so perhaps the closure would never have taken place if Sir Joshua had not agreed.

MR SPEAKER:

You mean the closure of the Dockyard?

HON MAJOR R J PELIZA:

The closure of the Dockyard. Let us remember that, but if it happens, Mr Speaker, then it is obvious and as has been proved by all the consultants that the only alternative we have in Gibraltar, is to make full use of our harbour facilities. I would not have put, in any case, all the eggs in one basket. I would not have gone for shiprepair only. There was another scheme in which there was some justification and in that way, if shiprepair business was going well, fair enough, make use of that. If by any chance you have a bad time, and it is a business that goes up and down, even the consultants say so, you will always have the ups and downs in the Shiprepair world. Well what is going to happen when it goes down, Mr Speaker, surely there are other schemes transshipments, as the other company was suggesting.....

HON A J CANEPA:

Is not the Member introducing into his moving speech, new material transshipments and so on?

MR SPEAKER:

It is not a question of new material, insofar as his original contribution is concerned, the new material which is not in answer or in reply to any matter that any other member has raised in his reply.

HON MAJOR R J PELIZA:

I am glad that you have made the ruling, Mr Speaker, because the question of the Dockyard is a complete red herring as far as this is concerned. I never mentioned the Dockyard, Mr Speaker, in my opening speech. There was absolutely no relevance to the motion, it was brought up as a red herring, its all ancient history, looking back to 1969 and obviously if that is the accusation that is made, I have got to defend myself, and thats all that I am doing, what I am saying is, the closure of the Dockyard possibly would never have been closed and if it had had to be closed, then we would have used another way, making use of that area, to have diversification. Therefore what I said then in that aspect, not in the one that was put on before, the relevance to the arguments that have been produced in this House. In connection with the London Office that is a question my friend, Willie Isola, brought up. Now one good thing about Mr Isola is that he was also a realist, and what he was saying about the London Tourist Office wasn't that he didn't want to spend money on it, his contention always was that there was no need to have a ground floor office because it was a waste of time, because of the cost and he failed, he failed. But the money would have been better spent on other Government spending, rather than purely and simply on the premises by having an office on the ground floor on something else, and in fact, all the other offices and I know of small territories like Cayman Island and places like that, they don't have a ground floor office, because people don't go there to buy their tickets. The place that you need is the place where the agents go to, the tour operators go to, that is what you need, but if you are going to have a ground floor, then you have to make total use of it.

MR SPEAKER:

Yes, but we are not going to get into that.

HON MAJOR R J PELIZA:

Mr Speaker, we have been attacked that we were.....

MR SPEAKER:

You are speaking on the London Office in general terms.

HON MAJOR R J PELIZA:

The London Office, Mr Speaker, we have been told that I wanted to use it for my own purpose, Mr Speaker, that I think is most unfair, and I have got to say this.

MR SPEAKER:

You can refute the allegation. You can do that.

HON MAJOR R J PELIZA:

So, Mr Speaker, Mr Willie Isola, did start a lot of activities with the tour operators, very effectively and perhaps, the best way of finding out is asking those who are today in the tourist trade. He took immense interest on the product... particularly and some of the little schemes that still thrive coming in into town from Waterport, that was his idea, he had imagination for that sort of thing, Mr Speaker, and he put it to the best of his ability and it did start producing results and I have no doubt that if he had been able to remain in office and carried on being Minister for Tourism, the product today would be entirely different to the one we have, with tremendous appeal, with a lot of character, as in fact you see his own little patio at home, with a tremendous amount of character that the whole of Gibraltar would have had, without spending any fabulous amounts of money. The Minister for Medical Services said that I have not been constructive, now obviously he must not have been listening because I did develop the whole question of how in my view, Gibraltar should be made to look a different type of town than what it is today, and without going into details, because even you Mr Speaker, would not have allowed, I said as much as it would have been possible in what I have to say. But if the Minister for Tourism looks back, I can tell him, that he is the first one that needs to have an index for the Hansard, because he says, that I have never brought a constructive motion to this House. In fact, I have, I have certainly talked on tourism on every occasion of the budget, and I go into great detail there. Now that is coming round once a year, and there I spend a lot of time, and there I am very constructive, and there I managed to get subsidies for the hotels who still haven't paid their bills, to enable tourists to come to Gibraltar. That was my pressure that did it. I enabled them also, Mr Speaker, to spend a little bit of more money on advertising, through my pressure, not very much, but a bit more and on every single occasion, I have tried

to be as constructive as possible, that is the appropriate time, Mr Speaker, to bring in in a constructive way, not with any question of making political capital because that is the time when it is proper to discuss this matter. Why should I bring more substantive motions which I have in fact, if the Minister looks on the 4th November, 1980, I brought a substantive motion of the question of setting up a Tourist Board. Now that cost me tremendous trouble, Mr Speaker, to get it off the ground. And God knows how many months later, eventually, eventually, I succeeded in having a board. Probably it was my idea but it was also what the tourist trade also wanted, but of course, you can take a horse to water, but it might take a miracle to make him drink, and the miracle I think has just happened, because, he has not, the Minister for Tourism, he has not made any use of that Board. Now, if that is not constructive Mr Speaker, what is constructive. I should say that when the other motions were brought on the 7th July 1981 more support to industry and tourism, and on the adjournment on November 81, and I think I have on other occasions, but I have not got the records, we have not got the index unfortunately, Mr Speaker, although I am trying very hard as you know, that this should be available as soon as possible. When I spoke about the lack of coordination, Mr Speaker, I mentioned that the Chief Minister had obviously lost confidence in the Minister when he appointed his Administrative Secretary to carry out an inquisition on tourism. But to my surprise now, we hear from the Minister that it was not the Chief Minister, but in fact that it was himself, that he suggested to the Chief Minister that he should do that. So in fact it seems that the Chief Minister was really not interested, but that it was he himself, now is it that he has lost confidence in himself and in his adviser, was it necessary to have an Administrative Secretary who has nothing to do with tourism, who has never been involved in tourism to start looking at this when he could have been able to have all the facts and figures with all the knowledge of what was going on. With everything that was happening and gone with the plan to the Chief Minister to say "Now that you are going to make a supernatural effort to try and bring tourism to Gibraltar, here is my plan. This is what I have always wanted to do". But of course, I realise that it was not possible then, because you were not prepared to let me have the funds and so on and so forth. However, now that you are going ahead here they are. No, Mr Speaker, he has no idea at all of what he wanted to do, and what he did then was, let us get the Administrative Secretary to start going round again. The Chief Minister then said because this is to get the other Heads of Departments involved. Mr Speaker, every Head of Department has got a Minister above him. What you get is the Ministers together and then, they involve the departments. Not the other way round. Are the Ministers going to be run by

the Administrative Secretary at the end of the day? That is the situation in Government, Mr Speaker. Little wonder that things are not going as they are, because it looks as if in the Ministerial setup there is no leader, no coordination, understanding, direction, to make changes of this nature if they are going to make it effective. Now, Mr Speaker, I mentioned the world market. I was told that was not it, it was much more. Well I can tell him that unless the person who I asked, and he was paying for that little stand, was telling me a lie, he was in fact, the man responsible for the Cayman Islands, representing the Cayman Government in Britain, running it for the Tourist Office, unless he was telling me a lie, he knew what he was saying. He told me what other people were saying, and the Manager who, was inside, also told me. That is what he said that it costed. And equally, with the other smaller ones it came to about £3,000, Mr Speaker. Now he said, well whether it is that money or whether it is not that money, it is a matter of judgement. Well everything, Mr Speaker, is a matter of judgement, and this is what I criticise the Government for. That on the question of tourism, since they have been wrong in the judgement, they must have been wrong in their judgement, because if they were going to create a Monaco back in 1972 and they have been incapable even of building a hotel, or increasing the tourist in any way, their judgement must have been wrong. Since that was their aim. The then Minister with so much vision was going to do so much. He must have had a lot of vision, but in fact, nothing happened.

The time as I said before, when the Minister should have addressed himself to the fact of the motion was before, and if he has done that I would gladly give way now, but as he ignored those points completely, completely ignored the facts of the motion to his convenience, no doubt, I am not going to play to his game now. Now he will remember too, Mr Speaker, that in my, I think it was the last time, I gave him a word "bomps" if he remembers rightly, that of being constructive, and I said what it stood for. For products, for operators, marketing, prices and for services, none of that has been taken or hinted on, nothing has happened. Is that not being constructive. I wonder if the Minister for Medical Services is listening to me who said that I have not been constructive at all. Now I suggest that he looks at those Hansards that obviously they have very cleverly avoided looking at to see if I have not been constructive in this House all along, Mr Speaker. Now, Mr Speaker, I had another attack from the Chief Minister, but quite honestly, he said so little about what he supposed to talk about that I did not even bother to take notes of what he said. Because most of the things was to do with the Dockyard, of which he says that what I had said then and what I was saying today, and I think I have answered the point already because it was more or less a repetition by reading, in fact, the same little

piece of paper and quoted the same things. It shows, Mr Speaker, that they were really scraping the barrel, they had nothing to say. So I think we will let it go, except to say one thing about Intasun. I never went to see the Leader of the Opposition to convince him as to what he had to say about Intasun or about Air Europe. He is capable enough of knowing what he has got to do. It is true that the Minister for Medical Services had a chat with me, Mr Perez, an informal chat, and I am surprised in fact that he brought it out here. It is most unethical to do a thing like that. And one will have to be very careful when one speaks to anybody informally to be sure of what one says. I was very surprised to hear that and hope it never happens again in this House. Because then the informality that we happily share as friends will disappear. Something that from the first day that I came to this House I have tried to encourage. So I must tell him that I never ever spoke to my friend about that. I have my views even today about air communications, they are well known. They are well known and they were well known in 1969. They still are. I think that Gibraltar should have an airline of its own. I believe that. That is what I believe in. Not owned by the Government, because that would be disastrous, owned by someone, a consortium or whatever you like of Gibraltarians whoever they may be with Government participating. So that we knew exactly what was happening and we took account of the difficulties that the airline obviously come across, but at the same time ensure that Gibraltar got a fair deal in that respect. I have always thought so, I still believe that. Now that of course, is perhaps the impossible dream and I accept that, it is a difficult task. But that is still my view. But you have got to take account of what the Leader of the Opposition very sensibly said. We have established operators in Gibraltar, who have been giving good service. We have lost a few Mr Speaker, which I did not mention before. Why have we lost them? We lost OSL, we lost Ellerman, we lost Thomas Cook and we lost Wings. In the time that they were going to turn this into a Monaco, in the last few years, Mr Speaker. Has the Minister asked himself why he has lost them? And has he done anything to make sure we are not going to lose any others. And this was the fears that my Honourable Friend on the left there, that if we started tampering again we might even lose Exchange Travel. That was the fear of my Honourable Friend. But at the same time he wanted to make sure that Intasun could come here if they wanted to. And this is the way he has been juggling with the ball in a diplomatic and sensible way.

MR SPEAKER:

Gentlemen order.

HON MAJOR R J PELIZA:

And what did he do. He said, well scheduled is dangerous, but charters, let them come in. And in fact it worked. Come in on charters and schedule if the situation improves. I have no doubt that the Civil Aviation Authority will grant them a licence. I do not believe that the Civil Aviation Authority was in any way biased one way or the other, unless the Minister thinks that they are. I do not believe they are, I cannot believe that an independent body in Britain is going to be biased one way or the other. I do not believe it, particularly when they have even pressure from the Foreign and Commonwealth Office, who I suppose must have supported the Government of Gibraltar. Now do you think that a tribunal of that nature, which they must have had an affection for Gibraltar, for being British, because, I mean, whatever we may say, our difficulties with the Dockyard, but this is force majeure, this is because they really have to do it within departmental constraints and difficulties. But by and large, even the people who are closing the Dockyard have affection for Gibraltar. This is why I have always said in this House that whatever may happen, whatever may happen, I will always stand and remain British, truly British, because it is within myself. It is more than just the subsidies that you might get for this or the other it is the value that goes with being British. Nothing to do with that, I do not believe therefore that the people in that tribunal were in any way biased one way or the other. And there may be judgements which with the best of their ability and knowledge they did - rightly or wrongly - I am not saying. But, lets point it out, already we are having difficulties, even on charter planes. I hope it does work, for the sake of Gibraltar and also for the sake of the people of Gibraltar who have invested in that because we have a local company who must be spending money on that. And for their sake, if for nobody else, I hope they are successful and I am sure they will get the full support of the Government and they certainly can count on the full support of the Opposition to make sure that they get a fair deal. Now, the question of the Gibraltar Tourist Office that I wanted for my own sake. Mr Perez again. That was ridiculous, childish and under the belt I would say. Why? I mean, thank God, I don't even need to be in politics to be fully engaged. I have a big family, I have got my own hobbies, in fact, I am always occupied, always, whatever may happen. My ambitions are not politics in the full sense of the word, my ambitions are general and therefore, what I say is "Here we have a Tourist Office in England, we need support in England from every quarter, politically, commercially, tourist wise. This is what I say, it makes sense, it has nothing to do with me. Let us develop that to its full use. I keep bringing it out every year, and then to be told that I am doing this just

to gain more votes at the elections, or purely to find myself a job in England. I can tell you that if I am elected I will be here, there is no question about it. I said it at the last elections and I am saying it now, and I hope that the press reports it so that the people know it. Because that in fact, may even get us to win the elections. I don't think it registered last time, I said it but I don't think it was reported. I do hope that the press will report it, at least I hope that our paper does so. And I have not brought it out. It has been brought out by the Government, by the Government, and I hope they say what the Government said because I think the people will believe it, and they won't believe what Mr Perez has said, they know me too well in Gibraltar to think that I can come down so low as that. Now if you look around the other offices in England, Mr Speaker, Falkland Islands. Falkland Islands now have got a Falklander who was in fact an elected member who is now representing the Falklands in England.

MR SPEAKER:

No, with respect you are not going to expand.

HON MAJOR R J PELIZA:

Mr Speaker I have got to defend my position.

MR SPEAKER:

Yes but not on a reply to a debate with due respect.

HON MAJOR R J PELIZA:

The other one would be the Cayman Islands who have done exactly the same thing, and if you go through the small territories, they now all have in the United Kingdom representatives from their own territories and representatives of the Government. We have got none. Therefore, when it comes to arguing the point with the press, with anybody, we have got nobody there. That is the fact, the position is accepted by the Government. And when I try to change the situation, they say I just want it for myself. No, thank you very much it is not my idea, in fact I am not in Government, I would not be able to do it, but I think that in future times, whoever may be in Government should be able to have that facility and that opportunity. Mr Speaker, we talk about schedule and air charters, the person who really introduced air charters and was always longing, because he thought it was necessary for tourism was Mr Serfaty himself, he always wanted it, so what is wrong with having air charters to bring people to Gibraltar. What was

my Honourable Friend doing wrong, that Mr Serfaty was not before. Why a negative now in that respect, if not just another red herring to avoid answering the motion. Mr Speaker, I have got many more points I think but I have more than excoriated my position, and I am just coming back to what should have been the debate which I have introduced and to which I stuck religiously in my opening speech, and with which I want to end. And I am going to end it with a man who on this occasion perhaps, was impartial, and that is my Honourable Friend Mr Joe Bossano. I don't think that he was taking either the side of the Government or the side of the Opposition. But what did he say, I am not going to say what I said. What did Mr Bossano say? He said that this was factual. He did not believe in tourism any more than I do to the full extent that tourism is the be all and end all. Because tourism will never be able to provide for Gibraltar. It will be something that is going to come in, welcome, and we have got to make the best of it, but in reality that is what it is. It will never be a substitute for the Dockyard, it will never be the substitute for the Base. Let us have no illusions about that. But it is a good income and we have got to make the best. With the open frontier, if it opens, we shall make a bit more with the money that they spend here. But remember that with an open frontier, our whole standard will be going down. The fact that I put parity before tourism is a clear sign of my belief. The fact that the Government was against parity, I don't know why. And it is parity through the MOD that has enabled Gibraltar to go through the very difficult years in the past, because I know that before parity came in, businesses were dying, and if parity had not come in to try and keep up with the amount of inflation that had risen because of the cost of all our imports that are required in Gibraltar, we would never have managed. Tourism would never have been able to provide that money, never, nor will it in the future, let us have no illusion. But of course, we have got to make the best of it. And it is in that spirit Mr Speaker, that I have always spoken in this House about tourism, not with the illusion that this is going to be a mana, no, but with the hope and determination to make it a good cost effective holiday resort which will bring a reasonable income into our economy. And that should still be our aim. I think we could double, we could double the amount of money that is coming in from tourism. I believe that it should be possible to make about £20million plus for Gibraltar. Because if we are now working at less than 50% of the occupancy of the beds and we are getting about £11million, if we managed to get about 100%, then we stand a chance of making about double of what we are making today, and that would be very welcomed. It would be about £2 million to the Government. But the Government must remember that they are not there to make money themselves from tourism. And any money that comes in through revenue, would if they were good businessmen, put it back into an investment. So that if

you get £1million coming in in revenue, you should put it back into the business and you would be surprised how quickly, you would be surprised how quickly that would start multiplying and bringing in more and more money in the situation that we are today. Mr Speaker, you are not going to talk to the stone-age man about the social situation of the 20th century Mr Speaker, that is ancient history. Things are moving in the world every day, or are we going to be so foolish that what is happening today it has got to happen tomorrow, it has got to happen in 10 years time. That is total absurdity. No wonder they are getting nowhere, Mr Speaker. In fact, as a gunner, an anti-aircraft gunner, I know that you never fire at the plane, because by the time the shot gets there the plane is somewhere else, and this is what the Government is trying to do. So what you do is that you point ahead all the time. You look ahead. What is going to happen, nothing is happening today, what is going to happen tomorrow, and this is the way. At least I have something up my sleeve, which the Government does not seem to have. We have got to see this in its true perspective. And seeing it in a true perspective we have got to ask ourselves, to what extent, to what extent has the Government proved that what I have said in the motion is not true. To what extent? None at all. They have not been able to disprove it. They have not even attempted to disprove it. That is what the Hansard will read like. And so I ask, again is it true that the Government is responsible for tourism in Gibraltar. The answer must necessarily be yes. Is it true that they have not taken a sufficient effective action to prevent the decline in the tourist industry. The answer must be yes, because the facts are there. And, Mr Speaker, what does the man who in this occasion is a neutral. He is neither one way or the other, he is neutral. Neutral, Mr Speaker, I don't think he is one way or the other in this issue. And what does he say. He says, I will go with the motion not because I am interested in tourism, of course, he has to defend that point because he must be shown to want the Dockyard to carry on. I can see his point. It is in his interest to do that. Obviously he is going to strengthen that position. Perhaps he would have been more outspoken if that issue had not been implemented. But what did he say. Although, in fact, if anything he was against it, he was trying to say although I am not a believer in tourism, I believe that what is stated there is a fact, they are facts. And I cannot go against stark naked facts like that, I can't. Because I can't convince anybody that they are not. And therefore, Mr Speaker, I still hope that this House holds the Government responsible for not taking sufficient effective action to prevent the tourist industry from suffering a very serious decline during its term of office so far.

MR SPEAKER:

I will then put the question as put by the Honourable and Gallant Major Peliza which is :

"That this House holds the Government responsible for not taking sufficient effective action to prevent the tourist industry from suffering a very serious decline during its term of office so far".

Mr Speaker then put the question and ruled that the motion was a motion of no confidence in the Government and consequently the ex-officio Members of the House were precluded from voting in accordance with the proviso to Section 44(1) of the Gibraltar Constitution Order 1969.

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

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 Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A T Loddo

The motion was accordingly defeated.

HON P J ISOLA:

Mr Speaker, before my Honourable Friend moves the motion standing in his name, I would like to raise a matter. And that is that on Friday evening a report on Gibraltar Television, reported the Honourable Mr Perez as having said in this House during the course of the debate that I had professionally opposed the application of Air Europe for a Scheduled Licence, and certainly I don't recall the Honourable Mr Perez having

said any such thing, and if he had, of course, at the time I would have got up and objected. Because as you know, Mr Speaker, had I been professionally engaged in opposition to Air Europe, obviously this would have had to be declared as an interest. So I would like to get confirmation from my Honourable Friend that he did in fact not say that. And if that is so, I would like you Mr Speaker, to ask GBC to publish a correction of their report.

HON J B PEREZ:

Mr Speaker, I would like to confirm that I never said or made such a statement in the House, nor did I make the statement, neither did I give the impression by way of innuendo that had been the case, and I am quite prepared, in fact, to make that public.

MR SPEAKER:

Well I think in the circumstances, there is a representative of GBC in the Press Gallery and I am sure that a correction will be made, if not I will make sure and will contact GBC myself.

HON G T RESTANO:

Mr Speaker, I beg to move the motion standing in my name, which states "that this House condemns the manner in which the Government has failed to discharge its obligation with regard to the Electricity Undertakings since 1976 with any degree of proper management, efficiency or foresight, resulting in enormous unnecessary expense and inconvenience to the people of Gibraltar, and accordingly expresses its feelings of no confidence in the present Minister for Municipal Services and the Chief Minister".

Mr Speaker, this is the third DPBG motion on electricity since the 1980 elections and together with the numerous questions that we have put down, and the lengthy discussions at Estimates and Supplementary Estimates time, shows the degree of importance which my party gives to this matter. I must also mention, of course, that Mr Bossano also put a motion. The two previous motions that we have put down, one was asking the Government to form a Commission of Enquiry to look into the Electricity Undertaking, that was in November 1980 and in October 1982, another motion of no confidence which was put by my Honourable Friend Mr Isola. I propose, Mr Speaker, first of all to go through the sequence of events of what has happened in the Electricity Undertaking since 1976, when a Report was received by the Government from Messrs Preece, Cardew and Rider who were consultants and who made certain proposals to the

Government. The Report was received in April 1976 and to date it has been kept by the Government in total and absolute secrecy. Nobody but itself and the subsequent Committee which was formed, has been able to have sight of this document. And I think it is important to mention this because the non implementation of that Report was the basis of all the problems that have been encountered since 1976. Some do say, and have said, that the source of the problem goes back to 1972 when there was industrial action, but I think the real source was the non implementation of the Preece, Cardew and Rider Report. Since 1977 till 1982, Gibraltar had to suffer power cuts, considerable power cuts, some lasting up to 3 hours. As I said I am just going through the sequence of events, and even now, in the not too distant past, we have had short power cuts since the Waterport Power Station has started operation. Since 1978 a Committee, a Working Party was formed, a joint Working Party was formed between the Gibraltar Government and the MOD to look into the possibility of a Joint Power Station, which was, I understand one of the recommendations of the Preece, Cardew Report. Nothing came of that, it was rejected by the Ministry of Defence in England, and in October 1979, following a very uninformative Ministerial Statement, so uninformative in fact, that it pushed my Honourable and Gallant Friend on my right here, Major Peliza, into putting an amendment motion to this House. And during that, an adjournment motion, rather, and during that adjournment motion, out of the blue, without any warning, the Chief Minister stood up in this House and said: "Oh, no, we have everything under control and we are buying a new 5mw Engine". Then there were the elections, and after the elections, Mr Bossano, put in a motion asking for urgent attention to be given to building a New Power Station. He was told during the motion that in fact, the Government had already taken the decision, although as far as I know, no decision had been announced by the Government. In August of 1980, there was an announcement by the Government that it proposed to purchase some Skid Mounted Generators to tie them over the periods when they felt that more power would be necessary. In November, 1980, the House was told that the Government had had an option to buy or to purchase a second MW Engine and also that the New Station would be at Waterport. In November 1980, again, the Skid Mounted Generators arrived. And in that month too, it was quite a busy session we had on electricity in November, 1980, we had a motion in this House asking for a commitment of Public Enquiry into all aspects of the Power Station. This was defeated by the Government although the Government agreed to implement a Committee of Enquiry whose reference of course, Terms of Reference were quite different to those of the Commission of Enquiry which the Opposition had asked for, in so far as the Commission of Enquiry would have (a) been public (b) looked at all aspects, past, present and future, whereas the Government's Committee

Terms of Reference were merely to ignore the past, and just look to the future. I will be going into that aspect into more detail later on. In March 1981, we had a Ministerial Statement giving dates for the conditioning of the two sets at Waterport Power Station and we were told then that No.1 set would be commissioned on the 8th of May 1982, and that the second one would be commissioned on the 17th August 1982. Around October 1981, again, there were further difficulties and there was an announcement that a Trailer Mounted Generator would be brought to Gibraltar. In April of 1982, we received the Interim Report of the Committee of Enquiry, and in the same month at Budget time, it was announced that there had been slippage in the dates for the commissioning of the Waterport Power Station sets. From May 82, No.1 was then supposed to have been commissioned in September of 82 and the second one from August 1982, we were now told that there was slippage, and it would not be commissioned until October 82. In June of 1982, we had the Final Report of the Committee of Enquiry. One of the recommendations of the Committee of Enquiry was that a Steering Committee for the Electricity Department should be formed, and that particular Steering Committee, from the recommendations of the Committee of Enquiry which finalised in June 1982, the Steering Committee was not set in motion until September 1982. In October of 1982, we had the motion of no confidence which was defeated by the Government and in November 1982, the reliability period of the Second Engine was completed at the Waterport Power Station. Slight, slight slippage only one month. But in the following month, in December, we were told that there was a further slippage on No.1 engine, which may I remind Members we had originally been told was going to be commissioned in May of 1982, and in December of 1982, we were told they had still not finalised its reliability period, and that there was further slippage. In April of this year, the Skid Mounted Generators were repatriated. And late in 82, we had further Consultants coming out to Gibraltar, Consultancy of the British Electricity International Company. In June of this year the reliability period of the first engine was completed. But since November 1982 when the second engine was commissioned, the Government was unable to take over the running of the Waterport Power Station and was unable to run it as was its duty to do. That I think, Mr Speaker, is the sorry sequence of events that we have had since 1976, which is from where I want to start again, going into further details. In 1976, Preece, Cardew and Rider, reported, were commissioned and made a survey into the Electricity and Water production requirements of Gibraltar until the year 2000. The cost of that Consultancy was borne by the ODA and we were told in this meeting of the House that it was confirmed that the cost was approximately £8,000. Although the report has been held in complete secrecy, one knows that Messrs Preece, Cardew and

Rider gave various options for the Electricity Undertaking to last Gibraltar until the year 2000. One of them was, as I have mentioned earlier, the possibility of running a Joint Gibraltar Government/MOD Power Station. Other possibilities that were recommended was that the Government, should itself, on its own, build a Second Power Station, to take over when King's Bastion's life span ended. Whichever of the recommendations Messrs Preece, Cardew and Rider said that immediately new machines had to be purchased. Whether it was for a Joint Station, or whether it was for a Gibraltar Government Station. That recommendation was certainly not taken up by the Government. The Government tried for a Joint Power Station with the MOD, it was rejected, it was rejected sometime in either late 78 or early 79, but Government did not take up the recommendation of immediately purchasing a New Set. When it eventually did, when there was that panic announcement by the Chief Minister in this House during the adjournment motion, the Chief Minister had no idea where he was going to put that set. One thing which surprised me earlier in this meeting was that the original Preece, Cardew and Rider Report, which was an extensive Report, and an extensive Report that covered Gibraltar's requirements until the year 2000 and cost £8,000. And yet, that was paid by ODA, and yet when the Gibraltar Government engaged Preece, Cardew and Rider directly on the Waterport Power Station, the cost of that consultancy was £279,000. Which to me it seems, more than questionable. That the figure of £279,000 of course, has been put into the project of the Waterport Power Station. But during that adjournment motion, off the cuff, ad hoc, clearly without having studied the matter in detail previously, the Chief Minister said: "I am going to have a 5mw Engine". It is very convenient for him to have to make this announcement a few months before a General Election of course. And, in fact I would like to remind the House what he said on that occasion. It was in October of 79. He said "first of all, let me say, when I was in the Engine Room having a word with our Chief Electrical Engineer, I heard that the Honourable and Gallant Member said that we were not going to have an engine until 1984". He was not far wrong either. "That is absolute nonsense" he said "we hope that by 18 months from now, 18 months from October 1979, a 5mw Engine can be installed which is really what is wanted for the next 3 years". And he went on to say "anyhow, all I say at this stage is that the question of the installation of an extra engine, be it, at King's Bastion, where I would not like to see it, but where it may have to go in lieu of the old engines, that will have to be scrapped or be it somewhere else. A new Engine of about 5mw can be, and will be, we hope, in operation within 18 months at the most from about now". So clearly, he hadn't the faintest idea where that Engine was going to go, and he hadn't got the faintest idea either of the timing when that Engine would be in Gibraltar. And may I say that at

that stage he had taken no decision, neither had his Minister on building a New Power Station. So that Mr Speaker, was in October of 1979. In March, as I said of 1980, as I said earlier going through the sequence, Mr Bossano put down a motion asking that urgent attention should be given to the building of a New Power Station. And he was told, he was told by the Honourable Mr Featherstone, who has just arrived, he was told by the Honourable Mr Featherstone, and I quote him "I am happy to inform the House and I assure the Honourable Mover of the motion that work has already started which was a good announcement, may I say. And we were told, at the same meeting by the Minister, that Preece, Cardew and Rider had been engaged directly by the Gibraltar Government as this would save money. Well, when I see the comparative figures of £8,000 for a consultancy in 1976 and £279,000 in 1981/82/83, I find that those figures are, as I said questionable. And was it in fact the right decision to get for the Government itself, to engage Preece, Cardew and Rider, or would it not have been a better idea to have asked ODA. But even then, even then, that announcement, we were told at the same meeting by the Chief Minister that there was slippage, that was the first slippage announcement that he made, that he said, he said two things. He had been accused by my Honourable Friend, the Leader of the Opposition that there would be slippage, and he said "Anyhow, all I say at this stage is that the question of the installation of an extra engine, be it at King's Bastion where I would not like to see it, but where it may have to go", he is quoting perhaps from the same as he quoted in 79 "Or it may have to go in lieu of the old engines that will have to be scrapped or be it somewhere else, a new engine. of about 5mw, can be and will be, we hope, in operation in 18 months at the most from now" he was quoting. A lot of weather has been made this morning about whether it is 18 months or not. In fact, strictly 18 months would not be when the Engine would be really required. Another shift. Because 18 months, on my understanding would take us to April or May, and about that time there would not be any need to supplement and in fact, two or three months afterwards we have the Skid Generators, and what we say now is having regard to the new set of circumstances that it will be in operation for the winter of 81/82. And in fact, it was not even in operation in the winter of 82/83, and my understanding of the winter of 81/82, and you could strictly say that it would be in operation for that time, even if it had come within 18 months. Is from about September to October 1981, that is the winter of 81/82 and not October of the following year, and taken 2½ years as the Leader of the Opposition is trying to make. That is what the Chief Minister had to say in October 1980, and if one talks of vision, I think the vision of my Honourable Member on my left here is far clearer and far more accurate than the vision of the Chief Minister. An amendment was put into that motion

of 1980 asking for a review to be made of past responsibilities to the disputes that had come about, and the Chief Minister challenged, directly that amendment and said a categorical no, to any research into past responsibilities at the Waterport Power Station. And at that time he also said that he was satisfied at the good industrial relations that existed in the Waterport Power Station. I don't know if that was a direct result of the elections and this was a sort of a honeymoon period, but anyway, that is what he said at the time. Of course we have been contradicted at later dates as I will show. So then in November 1980, which I could almost call the Skid meeting of this House because a large amount of time was spent in discussing the Skid Mounted Generators, we were told in this House, that the Government had decided to hire four Skid Mounted Generators to tie Gibraltar over the period when power cuts were being experienced, and that the cost of hiring these Skid Mounted Generators, which would be required for, or we were originally told 12 to 18 months and as a maximum 24 months. We were told that the hire charges would be £395,000. The Opposition questioned the Government closely on this matter and wondered whether in fact, it would not be cheaper to buy them outright rather than to hire them, and the Government said no, and at subsequent meetings when we again asked they said no, that they had taken the right decision and the decision to hire was a cheaper method and would cost Gibraltar less. In the event, because there was slippage, after slippage after slippage, and the 24 months, well the 12 months were exceeded, the 18 months were exceeded, the 24 months were exceeded, in the event, the total cost for the life of those generators was not £395,000, it was in fact nearly £100,000 more. The figure was £486,371. So there again, once more, the Government made an error in judgement. And we were told in fact, we were told at that meeting of November 1980 that the expected life span of those four Skid Mounted Generators, if not used too much, if only used at peak periods, would be five to six years, but that, if they were used for relatively short periods, they could last even up to 10 years. And when eventually they were repatriated, we were told that the book value at the time of repatriation was £285,000. Now what had actually happened, is that by not purchasing these engines and hiring them, it has cost Gibraltar £486,000 with nothing in return to show for that. If those engines had been purchased outright from the beginning we would have had to pay only £395,000 and at the end of the day we would have had Engines, I am not saying that they are worth their book value, I am not saying that, let us say half the book value, so half the book value would have been round about £100,000 plus, so we would have paid £100,000 less for purchasing than what we paid in hire and we could have got an extra, another £100,000 by selling off those engines which would have been used really only at peak periods. We were

told in fact, that the Skid Mounted Generators on the advice, or after consultations with Preece, Cardew and Rider, and, that there had been no charge for that particular consultancy. Now I wonder how and why it is that a firm of consultants advises its clients and does not charge them for this. Was that charge later put into the Waterport Power Station expenses, for those consultancy fees? But what came to light after the Skid Mounted Generators were received in Gibraltar was that this Government, and the Minister with such little foresight had not even thought of consulting his staff to see how those Skid Mounted Generators were going to be operated. And as a result, the Skid Mounted Generators arrived, and there was an industrial dispute and the men said "No, we are not going to run them, you have brought these engines, you have not consulted us as to how we are going to run them", and there was industrial dispute, and the first Skid Generators that arrived was here for one month without being able to be used. And then, in February 1982, Mr Speaker, we had power cuts and we were told that two of these sets that had been brought to Gibraltar were not able to be used to prevent the power cuts because they were out of order, not only the engines at King's Bastion were out of order, but these sets, which were only here to help out at peak periods, they too were out of order. And so after that little fiasco of the Skid Mounted Generators and the Trailer Mounted Generator which came later, they were repatriated, not as I say 12 months, or 18 months or 24 months, but 29 months after they had been brought into Gibraltar. And in 1980, in November 1980 we also had at that particular meeting, a motion asking His Excellency the Governor to appoint a Public Commission of Enquiry into the past, the present and the future of the Electricity Undertaking. And we were told, certainly, by the Government, certainly we will not, we will not accept any proposal to look into the past. The past is something which has gone, must be forgotten, and to suggest, that one should look into the responsibilities of what had happened in the past would be adding fuel to fire. And they said "No, we will have a Committee of Enquiry, you see, we are responsible", and I suppose there would never have been a Committee of Enquiry if we had not proposed from this side of the House that there should be a Public Commission of Enquiry. But anyway that Committee of Enquiry was born out of that motion, and the Terms of Reference, were I think, quite wrong, in that it was behind closed doors, and it was given strict instructions not to look into the past. But of course, the outcome of that Report showed what inefficiency there had been in the past, and I will come to that in a moment. This side of the House, or at least the DPBG side of this House disagreed with those Terms of Reference, we felt that there should be an Enquiry into the past in order to get the future on a proper basis, and we therefore felt that the Terms of

Reference were completely wrong and we refused to give any evidence to that Committee, and I think that our views were vindicated by the subsequent events and the cost of those events. The events of how much it has cost us in the hire or in the payments to Hawker Siddley Power Engineering because the Government was unable to reach any form of conclusion with its staff. In the Report of that Committee of Enquiry, although their Terms of Reference had been not to look into the past, in fact, their recommendations, one could see from their recommendations what had gone wrong in the past, because they were saying, in the future you must do a, b, c, d, e, f, g, they went on, and I am not going to read what they said, it is a Report which is public, which has been made public, but by saying that you have to do this and that and the other, it shows that those things were not being done before, and those were the reasons which led to all the industrial disputes. The Interim Report of that Committee was perhaps, very justifiably so, a panic Interim Report, because they had been asked to look at the future. The future was the Waterport Power Station, and that Report which was published, that Interim Report in April, 82, was just one month before the first Engine which had been stated in this House, would be commissioned, and the Committee saw that the Engine was about to be commissioned, and that the Government had absolutely no plans, the Department had absolutely no plans to look into, to see how that particular Engine was going to be operated. And they said, "Get going immediately, and get together with the unions, get together with the staff, find out how you are going to run this station". And the City Electrical Engineer was, it was recommended that the City Electrical Engineer should go full time to the Waterport Power Station. No plans had been made by the Government, no plans by the Minister. The Final Report was in June of 82, and I think it is clear from the recommendations in that Report that no consultations had occurred between the Government and the staff of the Generating Station for the running of the Waterport Power Station. And in fact the Committee recommended that there should be a Steering Committee to include members of both management and staff to see how the Station was going to be operated. And they even recommended, they went further, they said that once the Steering Committee had reached agreement as to how the Waterport Power Station should be run, that a Works Council should be set up. A Works Council to cover any future possible disputes in the Station. And one must remember that the Minister himself had set up a little Committee which I think he used to call it the Minister's Committee to try and sort out the problems. And what did the Committee of Enquiry recommend? The Committee of Enquiry recommended that the Minister should not be involved at all, either in the Steering Committee, or the Works Council. That can only mean

Mr Speaker, that the Committee of Enquiry felt that the Minister was quite incapable of serving any useful purpose in any Committee between management and staff to solve problems at the station. In fact the recommendations of the Steering Committee can be taken as nothing less than a condemnation of how things had been run in the past. In October of that year, in October of that year, my Honourable and Learned Friend put down a motion of no confidence in the Government for their lack of foresight and so forth. And the Minister replied that the Opposition was talking or was speaking from hindsight. He said "Oh it is very easy for you today to say there has been slippage, but you are speaking from hindsight". Now I would say to the Minister that if he went back to October 1978, 4 years previously, he would have seen a DPBG Press Release saying that the Government had the responsibility of giving a continuous power supply to Gibraltar and when I myself when I went on television to be questioned about that particular Press Release, I said on television then, in October 1978, that machines, more machines, more machines, more sets had to be purchased. So when the Minister says four years later that the Opposition was speaking from hindsight, of course he was completely wrong. We have seen from this side of the House, and we did not have the benefit of having seen the recommendations of Preece, Cardew and Kider, we were saying it 4 years previously, before the Chief Minister had announced his ad hoc decision. Interesting information was revealed during that meeting. We were told that the 5 mw Engine which has been spoken about all along could never have been put into King's Bastion. This was said by the Minister, and I will tell you what he said. The Minister said "That unfortunately for us, the Electricity Department had just then reached a crucial stage in its history after Engine No.13 was commissioned and there was no room for expansion within King's Bastion". That was said by the Minister. So when one thinks and one recalls that the Chief Minister had said that that 5mw engine, he did not like it, but it might go into King's Bastion, he just did not know what he was talking about. The Minister also told us in October 1982, that the situation at the Electricity Department, as far as industrial relations were concerned had become virtually disastrous. Quite a change from what the Chief Minister had said a few years back. Eventually, the Steering Committee got off the ground. It commenced in September of 1982. Now, let us see what the Government thought the Committee was going to cost, at least the Chairman of that Committee. They said that it would require about 6 weeks work, and it would cost about £23,000. 6 weeks after the 9th September 1982. The Steering Committee is still sitting today I understand, and from £23,000 the cost is now over £100,000, for the services of the Chairman of that Committee. And again, total secrecy about what was happening within that Committee,

total secrecy. We were told that quite a few months later, we were told in December, that it would be prejudicial to say, for the Government to say, what areas of disagreement there were. Prejudicial to successful negotiations. We were told in March 1983, that no, they could not give any information because after all that information was confidential. In May of 83, 6 months, no, 8 months afterwards, we were told that it would not be in the general interest to reveal what was happening in that Committee, but yet Mr Speaker, the costs were mounting and mounting. It was only in October of this year that we were told that one of the problems was a question of rotation. And yet we had been told all along "Oh, no, the Committee is progressing successfully". How a Committee can progress successfully, Mr Speaker, and not reach agreement as to how to run a Power Station, which only has 2 sets over one year. We were told at this meeting of the House that agreement has now eventually been reached and that it is hoped, I think that this week there will be a document signed by both sides. I hope so, and I hope also that the recommendations that have been agreed by both sides include recommendations as to the Works Council which is to take over from the Steering Committee and prevent, hopefully, any industrial disputes in the future. But we were also told earlier at this meeting, for the first time, after we had been questioning, and questioning and questioning on this Steering Committee, that there were also sub-committees, and not only were we told that there were sub-committees, but when I asked the Minister how many of them there were, he did not have the foggiest idea. He had to go back and phone the department and say "Tell me quickly, how many sub-committees are there?" Is that the way to run a Department Mr Speaker; the Waterport Power Station, is I think the greatest single project that has been carried out by the Gibraltar Government. The cost is approximately £8million. I think I said earlier that the original contractual dates, we have been told for the commissioning of two Engines there were May '82, and August 82. One of them from May 82 was not in fact commissioned until, I think it was, April of this year, a year later, a year later - good planning, very good planning. The other one was commissioned earlier, there was much less slippage, from August of 82 till November of 82. Now in November 82 when that set was commissioned, it should have been the responsibility of the Government to start running the Waterport Power Station, but they were unable to do so because no agreement had been reached between them and the staff as to how that Station was to be manned. So what happened? Those sets were required, they were badly required, the power that they could produce was essential for Gibraltar, otherwise we would have had power cuts. But Government was not in a position to take over the Station. So what did it do? It told the contractors please run it for us and they have been

running it for Gibraltar ever since. At enormous cost, which I will go into in a moment. The actual Official Opening of the Station we were told sometimes, once we were told April 83, then we were told the Autumn of 83, but I think that the Autumn now is well past and in fact it does not require the contractors to be out of there for Government to take over that Station. Mr Speaker, the motion says "the House condemns the manner in which the Government has failed to discharge its obligations with regard to the Electricity Undertaking since 1976 with any degree of proper management, efficiency and foresight". I think that I have proved that part of the motion at any rate. And then the motion goes on to say "resulting in enormous unnecessary expense and inconvenience to the people of Gibraltar". Well I think that every single person in Gibraltar knows to what inconvenience he was put through during the time of the power cuts. I am not going to go through all the areas of inconvenience, but I think that it is obvious and people know about that, and that the Government knows about that. As far as the cost of the Government's incompetence, let us go through it little by little. The Skid Mounted Generators which had to be purchased obviously because the decision had not been taken in 1976 to buy new sets, the hire of those Skid Mounted Generators amounted to £359,068. The installation cost etc, £89,303, and the repatriation £38,000. Total £486,371. The Trailer Mounted Generator hire £120,020; installation costs, etc £40,184; repatriation £4,211 - total £164,415. Payments to Hawker Siddley Power Engineering to run Waterport Power Station because of the Gibraltar Government's inability to do so on account of the failure to reach agreement with their staff since the Engine passed their reliability tests and this figure is to the 19th December 1983, no less than £1,304,147. Then on industrial relations, the payments to the Steering Committee, the payment for the chairman of the Steering Committee, this is to last November, so it is clearly more now, I would imagine, £110,915.

MR SPEAKER:

I think you said 18th December 83, I am sure you meant 82.

HON G T RESTANO:

No, no 83, the Chairman of the Committee until November 82.

MR SPEAKER:

It is projected till the 19th December.

HON G T RESTANO:

It was projected so there may be more payments, I do not know.

MR SPEAKER:

No, but we are today on the 12th December that is what I am saying, and you projected until the 19th December.

HON G T RESTANO:

That is right. 19th of December is the Hawker Siddley payment, and the cost for the Chairman up to November 1983 is £110,915. There may have been more payments since then I do not know, these are the latest figures that I have, which in fact, I will be circulating to Members in case there is any query, on any of the things. And then the cost until October of 83, for the Members of Government employees within and working in that Steering Committee, we were told that that figure was £4,000. And the cost of the consultancy to the British Electricity International Company Limited Consultancy, and they came to advise the Steering Committee how to do things. They got £4,900. So the total cost of this particular operation was £119,815. And then, over the years, Mr Speaker, because of Government's inability to provide adequate power to Gibraltar we had to purchase some from the MOD. That again, the cost of that is as a result of Government not having taken the recommendations of the Preece, Cardew and Rider. And what is the cost of that? From 1976 to 1980, the MOD were paid £62,240. For the remainder of 1980 £70,642. And from 81 to the first three quarters of 1982 £19,509. Total paid until the third quarter of 1982 to the MOD £152,391. Earlier in this meeting we were told of yet another Consultancy, this time Cooper and Lybrand, that cost £25,200. Total cost of Government's incompetence, £2million.

HON CHIEF MINISTER:

Mr Speaker, if the Honourable Member will give way, I think he is misquoting the figures in such a way. I will not interfere with the rest of what he has said until I answer, but the latest thing has nothing whatever to do with the Power Station, it is only a question of the future of tariffs between water and electricity, it has nothing whatever to do with what was done or what was not done, the point is to find out the fairest way in which tariffs in the future can best be charged.

HON G T RESTANO:

I take that point entirely, Mr Speaker, but I still consider that it is part of Government's incompetence, I don't think

we need to pay £25,200 to get people to come out here to tell us what we have to charge and what our tariffs rates should be. I think that the Government should be able to find that information with no difficulty, and this to my mind is a further evidence of Government's incompetence, of which the total, Mr Speaker, the total of the cost of the Government's incompetence has been £2,252,339, and I will let the Chief Minister have a copy of this so that he can refute anything which he disagrees with. £2¼ million. But what is the cost of the suffering to the people, of the inconvenience, the loss of goods, that, I suppose Mr Speaker, is unquantifiable. So, Mr Speaker, I come to the last part of the motion which is "and accordingly expresses it's feelings of no confidence in the present Minister for Municipal Services and the Chief Minister". They, particularly the Chief Minister, has complete responsibility for what has happened in the Electricity Department. He has taken it upon himself time and again to deal with the matter, and the Minister who has been there, since I think about 1978, has been responsible, I think, for the fiasco of Skid Mounted Generators and must take responsibility for that, and the fiasco of the Steering Committee and the fiasco which has cost over £1million for not being able to run the Waterport Power Station and having to pay £1.3 million for somebody else to do it. Mr Speaker, I beg to move.

Mr Speaker then proposed the question in the terms of the motion moved by the Honourable Mr Gerald Restano.

HON DR R G VALARINO:

Mr Speaker, Sir, this motion is similar to that of the 3rd October 1982, moved by the Honourable the Learned P J Isola. Again, it goes back to 1976, which in my opinion does not make much sense since the original motion was defeated by Government. It would have made sense to have brought the motion up to date, and not go back to 1976. But obviously the reason why the motion goes back to 1976 is because the Opposition want to bring up again the subject on the Preece, Cardew and Rider Report, which has stuck in their throats, literally, stuck in their throats, because they have not read it, they have no knowledge of what it contains, and what Mr Restano says about non-implementation of the Report, it is sheer and utter fabrication as he has no knowledge of anything connected with the Report, apart that it says that we would need further generating capacity for the years ahead. Mr Speaker, the motion, in itself has no substance, and it is entirely motivated by political opportunism as they continue to flog a dead horse. Now in my last intervention in 1982, I dealt at length with the reasons, so I would like if I may and not wishing to take up too much time in repeating some of the details that were

absolutely necessary to emphasise the points I made at that time.

HON CHIEF MINISTER:

If the Honourable Member will give way, a paper has been circulated, which does not, which has something which has not been mentioned in the debate I think it is most improper. It talks about loss of goods, loss of trade, expenses incurred in respect of cooking, I think that has not been mentioned by the speaker, other than a general statement of inconvenience, and I think that it is most improper that a paper should be released by a Member of something which he has alleged to have said in the course of the debate and which he did not mention.

MR SPEAKER:

Well, may I make the position completely and effectively clear as to how circulation of papers are concerned. Earlier on in this meeting we were circulated with an exchange of correspondence between the Financial and Development Secretary and Mr Bossano, may I say that any paper which is circulated, is not referred to in Hansard in any manner at all. It is merely by a way of convenience, and what has been said in the House is reported in Hansard but not what has been circulated.

HON CHIEF MINISTER:

Yes, Mr Speaker, but this precedent is very dangerous, because you cannot prepare something and you may have forgotten to mention it and then release it and to the press, it looks as if it is part of the proceedings and we have to be very careful about this. Well, strictly I don't mind because he has been mentioning them, I will look at them on their merits, but when he starts talking about cost of suffering, inconvenience, loss of goods, loss of trade, expenses incurred in the purchase of heating apparatus lighting equipment etc, he has mentioned nothing of that. And it is I think a case of practice of the House to circulate something of what you might have said and you did not say, and it looks as if it is part of the record. I appreciate that it does not go into Hansard, I appreciate

that, but that is not appreciated either by the public or by the press.

HON G T RESTANO:

Mr Speaker, may I say that I said that I was not going to repeat what had been said often in the past.

HON CHIEF MINISTER:

Well, then you should not have put the motion in at all, you have repeated everything, you have said it in 72 and 82.

HON G T RESTANO:

I said that I would not repeat all the details of all the suffering.....

HON CHIEF MINISTER:

Alright but don't circulate it.

HON G T RESTANO:

But I think that I have every right to circulate it, Mr Speaker, I have every right, and if the Chief Minister is denying anything that is in this paper, has he denied?

MR SPEAKER:

I will not enter into a controversy as to what Members should or should not do or how they should do it. The media is in the House, and I will sound a word of warning that it is one thing for Members to circulate information which they want disseminated, but it must not be taken that it forms part of the proceedings of the House. I take it that the position has been cleared, and once the media quotes the proceedings of the House they have got to be careful that they are quoting what has openly been stated in the House and not necessarily papers that have been circulated. Unless of course they have been laid on the table, that is another matter.

HON DR R G VALARINO:

Mr Speaker Sir, talking about the statement of the Honourable Gentleman, I do not honestly mind factual figures being shown to other Members. The last paragraph tends to imply certain things, not to ask on this side of the House, maybe not to them on that side of the House, but it could well be picked up by the media and used as a campaign issue by the Honourable Mr

Restano. Now, I was at the time, when I was saying that I did not want to go too much into what I said in 1982, and to just make the absolutely necessary points in order to be able to defend the debate. At that time, I mentioned that against the background of the financial climate brought about a fuel crisis with the resulting trebling over a short period of time of fuel oil prices which had a disastrous effect on the operational costs of small, and I repeat small electricity supply undertakings all over the world, because unlike the large national utilities, Gibraltar cannot fall back on hydro, nuclear or coal power stations. In the case of Gibraltar, this was confounded by the high increases in wages and salaries brought about by the introduction of parity. Mr Speaker, Sir, there was never any doubt in anybody's mind that additional generating capacity was going to be needed, hence the DCP Report of 1976. The bee in the bonnet of the Opposition. A number of options were available, and it was considered logical and prudent that they should be explored before taking any final decision on the project with major financial implications as represented by the building of a completely New Power Station, and which we knew had to be financed from Government resources, since the various attempts made by the Financial and Development Secretary in order to obtain development grants from a variety of sources, including the European Development Bank, had met with a negative response. We have gone over and over, here in the House, the various alternative options open to Government, and for the record I shall repeat what they were. They were basically three, the first one was to increase the size of the Engines at King's Bastion. This would have meant removing a 2.2mw Engine which was working at the time and changing it with a 5mw Engine. The other two, needed the help of the MOD. One was a Joint Power Station at the present site of the Waterport Power Station and the second was an expansion of the Inter Services Generating Station. Now, talking about King's Bastion, this was ruled out after considerable thought, because it meant retaining the same working conditions which exist at King's Bastion, and very possibly even aggravating them. Increasing pollution in the heart of the city and there were inherent difficulties of working within an operational station within the confines of the military bastion. The two other alternatives, necessitated approaching, as I said before, the Ministry of Defence for their cooperation, for both of them. This particular exercise took a very long time, since whilst discussions were held here in Gibraltar and at such times meetings were attended by officials from the UK who came out specially for them, the final decision rested with MOD in Britain. And as we have said before the various proposals were finally rejected and in the end Government was left with no alternative but to proceed on its own with a construction of the Power Station and with all the implications which such a decision carried. The Government,

can therefore not be accused of either lack of foresight or proper management, for all this work was in hand during the period 1976 to 1979. But, I would admit that because negotiations of this nature do involve consultation with other parties and administrations, they often take much longer than might have been anticipated in the first instance. Let me suggest this simple example. The difficulties experienced by Government in their appointment for the Steering Committee, as the Chief Minister has previously explained to the House, only serves to highlight the delay that is going to occur in such processes despite consistence and maintained efforts on the part of all concerned. Mr Speaker, much has been said about the 5mw Engine mentioned by the Chief Minister in the previous debate. And, I think, this debate presents me with an opportunity to clarify a point which the Opposition has laboured on repeatedly, as an example of the term lack of planning and on the spot decision making and which has never been really explained properly. The decision of the Chief Minister as stated to the House during the course of an adjournment debate in 1979 to the effect that a 5mw Generator would be in service within 18 months. That was really not an on the spot decision taken by him on the spur of the moment. In fact it was a valid statement of fact which would have applied as being part of one of the options already mentioned and would have been the case if we had decided to proceed with the re-engaging of King's Bastion. It was indeed estimated that the second 5mw set additional to No.13 would have been in service within that period. However, in spite of the commitment given by him and for which he has claimed full responsibility in the past, it was later, when we were returned to office in February 1980 that Government decided to proceed with the construction of a New Power Station in the full knowledge that a longer gestation period would be needed. That, Mr Speaker, is responsible Government. Because that decision was in the best long term interest of Gibraltar, and I have no doubt in my mind whatsoever that we took the right decision even though as things turned out, it became necessary to import temporary generating plant, never an ideal situation and at a cost penalty. But common to small territories in order to meet the shortfalls in generating capacity which resulted. Now, let us turn to this temporary generating plant which the Honourable Member says it has cost us so much. I would like to remind him of an answer given by the Honourable the Financial Secretary, and I am quoting from Hansard the 22nd February 1983, when the amount was queried and he said, "You cannot really look at it from the point of view of establishing whether an amount has been reached. If the Skids had been brought outright, we would have been paying the full amount on day one, and that amount would have obviously been borrowed or loaned. If you attain it through time obviously, it will be discovered at the end of the day you pay less, but the financial

analysis show that if you needed to have the skids, but the financial analysis shows that you need to have the skids for about 5 years or more before it would be really worth buying rather than hiring them". So, the Skids did actually cost less, the hiring of them, I haven't looked at the little paper that the Honourable Gentleman has passed around, but obviously he has included certain items which are basic to either hiring or buying the sets, which means the installation of the sets etc, etc. Now if we put down installation costs £89,000. Now those installation costs would have been the same whether we would have hired the sets or we would have bought them. So, the fact that he has put them in there only serves to highlight the point that he wants to make political capital out of it. He has forgotten one very important, in fact, I look now at the Trailer Mounted Generator, installation costs, £40,000. He has forgotten one very important factor, that Government was able to manage to recoup the greater amount of the money through electricity bills.

HON MAJOR R J PELIZA:

I do not understand.

HON DR R G VALARINO:

I will explain the last part. I said that even if we hired the sets, the sets were run, therefore they produced electricity, and therefore produced charges for which we were able to get back Government revenue. So the fact that he said that the high charge was that much, he has got to decrease that higher charge by the amount of which the Government made during that time.

HON MAJOR R J PELIZA:

Could I just ask another question? Would it not be the same wouldn't you get money from the running charges?

HON DR R G VALARINO:

It would have been exactly the same.

HON CHIEF MINISTER:

Except that they would have said we have saved wear and tear in our other Engines.

HON DR R G VALARINO:

And not only that, if the Honourable Member had listened, we

would have also saved as I said before, the fact that the money would have to have been borrowed to some extent, and the borrowing would have cost Government an additional amount of money. Now all this, Mr Speaker, is now past history. But, it is quite obviously in the Opposition's interest to keep this alive as a hope that they should be able to bring this up at election time, but our own objective has always been a forward looking one. In fact, forward enough, that we now have 2 Engines at Waterport, which are running perfectly well, and as I think I mentioned previously in the House, we have approached ODA for a third engine of the same magnitude to continue the expansion of Waterport Power Station, which will eventually take over from King's Bastion. He questions why did we bring Trailer Mounted Generators. He forgets that at the time I mentioned that No.8 Engine, one of our most reliable engines had a total breakdown, through a crack in the column line, and it was necessary for a short time to bring a Trailer Mounted Generator. He then goes on to say, he talks about the Minister's Committee, that the Minister's Committee did nothing, that the Minister's Committee was a waste of time, and.....

HON G T RESTANO:

On a point of order Mr Speaker, I never said that the Minister's Committee was a waste of time. I said that the Steering Committee had suggested that the Minister's Committee should be done away with. That is a fact.

HON DR R G VALARINO:

Yes, Mr Speaker I accept what the Honourable Member has said. Now let me deal with this. Although we do not necessarily share the Opposition's view, in fact, Mr Restano, laid considerable importance to the fact that in view of the Committee of Enquiry there was no adequate departmental machinery within which to discuss the Government's proposal for the manning of Waterport Power Station. And he obviously felt that the Committee of Enquiry has made the right recommendations in proposing the setting up of such a Steering Committee. So it was they as Mr Restano, has just said, that they felt a Steering Committee should be set up. Government followed the recommendations and if it had done otherwise, no doubt the Opposition would also have been critical. Now let me mention about the Minister's Committee, and I shall quote the Honourable Mr Isola, because he quoted directly from the Report of the Committee of Enquiry. He said about the Minister's Committee "The Committee", this is the Committee of Enquiry, recognised that the present Minister's Committee has served the useful purpose in overcoming the immediate need to improve both the industrial relations and the working conditions at King's

Bastion, both North and South. It is not considered, however, that this Committee can usefully continue its present form. All the evidence we have heard predicates against it, and without wishing in any way to revert any established order, we are unanimously of the opinion that the setting up of a more appropriate representative committee is advisable. This will allow all the staffing negotiations for both Waterport and King's Bastion North to proceed in a more constitutional form". These were words of the Honourable the Learned Leader of the Opposition, and as a result the Steering Committee setup. Well, Mr Speaker, the Government having followed this proposal had considerable difficulty in appointing a Chairman. But this was finally done in September 1982. No one, not even the Members of the Committee of Enquiry could possibly have been under the illusion of the magnitude of the work assigned to the Committee. In fact, the Report recognised this by stating that its work should be completed within 9 months. It has taken longer than that, true, but its work, I am happy to say, is almost complete. The staff have been difficult, because it has involved the introduction of practices which are new to Gibraltar. Such as the change from the existing three shift cycle roster, to four shift cycle roster with relieving shifts and the introduction of round the clock shift maintenance capability. These are practices which are quite common elsewhere. This had been considered necessary by management for a long time and were recommended by the Committee of Enquiry. In fact, if one looks at the Committee of Enquiry, and the draft document of which staff and management have agreed, almost entirely, and will be signed in the near future leading to the introduction of full Works Council, one can compare the two and find like by like, find all the points being covered, and find something which we have never found in Gibraltar - a complete understanding between two completely different sets of people. In addition to this, the Steering Committee has also been involved in negotiating the constitution and the composition of the future Works Council which will be the final answer, a Departmental Dispute Procedure, Manning Levels, Revised Job Titles, Management Structures and finally Procedural Agreement for the future introduction of Synthetic Data Based Productivity Schemes. All these things do take their time, especially in a small place like Gibraltar where individual involvement and concern is far greater than is normally experienced in similar negotiations carried out in an industry in a national context like the United Kingdom. And I have already stated many times how often the Steering Committee has met, how often the many sub-committees under the Steering Committee have met, and all this just goes to show that it is Government's intention to hasten the arrangements as soon as possible, so that the satisfactory conclusion is reached. So that we can look forward to the manning of the Waterport Power Station, to the

full manning of the Waterport Power Station, because there are already people there, as soon as possible. Now, there are a couple of other things which the Honourable Mr Restano mentioned, he mentioned about slippage of the engines, he seemed to mistake this with reliability periods, which I dealt with extensively in answer 128 of 1983. He mentioned many red herrings, which is not uncommon coming from Mr Restano, and then he mentioned the fact that HSPE are running the station and thereby costing the Government a fair amount of money. Let me say that if HSPE were not running the station Government would be running the Station themselves, and in fact, I have mentioned in the House that the cost of running the station by local employees would be approximately half of what we are now paying HSPE. I am afraid to say that the Honourable Mr Restano has never asked me to come and let me show him Waterport Power Station. He is probably waiting for the full opening and only once has he been to King's Bastion, and that was probably too often. Yes, and there was trouble. I had to get him out before they lynched him. So how can a Member of the Opposition honestly bring in a motion like this, if he has not visited the place himself. But I mean, the same thing happens when my Honourable Colleague Mr Zammit, answered the previous motion by Mr Peliza. Members of the Opposition do not go and visit departments, most, not all of them, do not go and see the departments concerned. They do not take an interest throughout the year. They are only interested when they are here, they attack Government but it is heard outside, in the press, over GBC, although Members do not wish us to pay GBC their payments, but it is heard over GBC, and in other newspapers. Mr Restano, unfortunately is getting his Hansards wrong, of late. I have corrected him twice in the last meeting and in fact, he was corrected once in this meeting I believe by the Honourable Mr Perez. Now, he mentioned something about power cuts, that we are still having power cuts despite having new engines and a great deal of additional power. Now, I would not call them power cuts, because they are not power cuts. Let me explain the system how it works. Let me take the United Kingdom. In the United Kingdom you have got a Generating Station of coal, nuclear, oil, maybe hydro electric power coming into a grid system, and at that time in the grid system they spend 15% of their capacity. When this comes into town, if they need any extra power, the power is available. Here in Gibraltar, the power comes directly from the engines, and if by any time, the engines have to be shut down, quickly and immediately, a momentary power interruption may occur. Now even if we had 20 engines, this would still happen, because there is no grid system in Gibraltar. Because we are running Gibraltar like we are running, and we do have to run Gibraltar unfortunately, because of our neighbours. We are running Gibraltar as if we were running a much larger concern. We have to run electricity, water, public works, GBC, everything alive. Everything alive, medical services, everything, which one would find not in a

small town of this number of inhabitants in the United Kingdom, but in a very large town. I mean in a town, this small in the United Kingdom, one would not find the quality of consultants that are at present at St Bernard's Hospital. And this is the way that we have to run Gibraltar, because we have neighbours over there that we cannot trust. So unfortunately, this is the way power cuts arise. Power I mean Electricity power, and not literally power. Now, Mr Speaker, I have dealt with most of the points brought by the Honourable Member in his speech, he says that there was no degree of proper management, efficiency or foresight, when I have shown that there was degree of proper management, there was efficiency, there was foresight, resulting in enormous unnecessary expenses. I dispute that as well. And the inconvenience to the people of Gibraltar. And because he is electioneering he puts the last paragraph in a little paper which he has turned round. Therefore Mr Speaker, in order to sum up let me say that Government is content that it has fulfilled its obligations in a responsible manner and now adhered to the recommendations it has received. We feel this motion is nothing more than electioneering and the wish to flog a dead horse for the benefit of the Opposition. Sir, Government will be voting against the motion.

HON MAJOR R J PELIZA:

Mr Speaker, the performance of the Minister was no better than I expected, which is total rubbish, Mr Speaker. Here is a motion, of tremendous seriousness, of which Gibraltar is well aware, there is no hiding from fact. Tourism might be got away with since the people do not know enough about it, but electricity Mr Speaker, does affect every home in Gibraltar. It has affected every home in Gibraltar. And, therefore, Mr Speaker, everything that we stated in that motion are facts and in this case, are supported by very carefully worked out figures that my Honourable Friend has been able to put together. And what have the Ministers done in this House today, to satisfy, forget about the Opposition, we are trying to make capital out of this, but to satisfy the people of Gibraltar. Let us forget about good judgement, but satisfactory I think in the circumstances, that if anything, he has made matters worse, not better. He has been making a few statements, Mr Speaker, which really confirm what my Friend said. First of all let us take the question of committees. It is a well known fact that when a Minister or a Government or a Department is in trouble, the first thing they do is, how can we pass the buck and throw a cloud over the whole thing. The answer, Mr Speaker, which a good Civil Servant would recommend, get a committee going. Set up a committee and the whole thing is so confused at the end of the day that nobody knows whether they are coming or going and in this respect we must say that the Government has been absolutely first class. The only thing is, Mr Speaker, that

in this case it drags on a bit more, because the so called Steering Committee which was going to put matters right so quickly has become really bogged down and it is a very costly committee. Mr Speaker, it is still there, it sticks out like a sore thumb. Now, what has the Minister said to convince this House that it has taken so long for this Committee to come to a final conclusion and settle whatever is the dispute or whatever you wish to call it, between the workforce and the management in getting to man the New Power Station which has cost a fortune and which we must be very careful we do not throw away. Because one thing that was said by the Enquiry was that no less than the City Electrical Engineer should be there all the time. That in itself, Mr Speaker, the fact that it has called the man who is responsible for the Department to leave his work and concentrate on this particular installation, Mr Speaker, proves the importance of the situation and the chaos in which it is in. I cannot understand how for some time the person responsible was taken away from the central chair and put down to a site office, as you might say, to deal with that problem. Steering Committee, Mr Speaker, all we know, even today; when the Minister is facing a motion of no confidence, including the Chief Minister as well is facing a motion of no confidence. All he says is "yes, it is nearly ready, and it will be ready as soon as possible". But soon as possible, Mr Speaker, for this Minister does not mean a thing. It does not mean a thing at all. It could be tomorrow, I suppose, or it could be in 6 month's time. We just do not know. We have no idea at all because we can no longer take his word for it. That is a fact. This is why we are saying no confidence. Now when my Honourable Friend quantified the figures, in my view we left out one very important one, which perhaps is unquantifiable. And that is that because of the bad judgement of the Government, the purchase of the generators were done a number of years later and because they took so long, they obviously cost a good deal more. And they cost a good deal more not only in its cost, in their intensive costs, but in transport, bringing it over, and labour in having the Station done. So that figure, which my Honourable Friend has very kindly omitted and yet we have the Chief Minister, questioning £25,000 or whether this Committee was indeed, responsible or necessary or not necessary for the sake of the installation. Well he should be thinking of a £1million or £2million that this has cost Gibraltar by simply not buying the Generators in time. And I would like to see what the Chief Minister has got to say about that. It is rubbish, please note this because it is very important for the record. It is rubbish to say that when you buy capital equipment delayed for a number of years the cost is the same as what it was before. That is wrong. The question of the inflation does not come in. That is rubbish. If that is rubbish, well ask any person who is investing how important

it is, to buy as quickly as possible because otherwise your cost goes up. If, this were not a public corporation being paid for by the public, a Public Undertaking being paid for by the public, if we were a business competing with another business it would have been a disaster, a total disaster. They would have been out of business, if it had been proper competition with another firm and of course the Director would have been sacked but not here because we cannot sack. We have to wait for the next elections. And then you try and bring this to the public, which is very justifiable, because after all this is why the Opposition is here . . . to try and clarify the situation, this is what they are doing, bring it out into the open. They say it is electioneering. Making political capital. This is not making political capital, Mr Speaker, this is carrying out the functions, our functions, this is why we have been put here on this side of the House and this is all that we are doing here today, Mr Speaker. Now, we find that my Honourable Friend, in order not to repeat what is common knowledge in Gibraltar did not read the end of the statement on the cost of Gibraltar on the delay in implementing these recommendations that we know were made in 1976. We are talking now about 1976, to which my Honourable Friend refers. And because of that, because the Government in its wisdom did not act on that Report, not only have we lost money, the people in Gibraltar will have to pay more, either directly by the charges of the electricity units going up or indirectly through Income Tax. This generation for the amount that they will pay, and future generations for the interest on the payment back of the capital expended on the generators. Apart from that, there is the inconvenience and added costs to which My Friend again said, perhaps could not be quantified. First of all I think the cost of suffering in some cases. We may have an old person who on a cold day just cannot get the heater on or cannot have a cup of tea or a hot meal or the baby cannot have his hot bottle or milk bottle, and so on. I mean there are lots of little things that in this modern life we expect in our standards of living to be there without questioning. When the Minister says on the question of the grid that we as a small town obviously have not got at our disposal the different sources that a bigger nation has, where you can switch on from one to another, when one is out, the other one comes in and helps you but this has never happened before. One thing that we could be proud of is that there were very seldom any blackouts in Gibraltar. Why is it that they now suddenly start happening. It must be a big question mark. I mean it is not entirely true either that we cannot get something from other sources. We have the MOD to which we can plug for repairs of engines going out and so on. There might be instances that because they are supplying a naval ship in the harbour they may not be able to do it; that may be the case. But by and large, they can come and give a hand and the fact is as I

said, the proof of the pudding is in the eating, it used to be alright before 1976. And if for any particular reason one district went out for a couple of hours, it was understood and nobody complained. When the complaints started coming in was when this was consistently happening. Whether it was the engines that were at fault, the labour which was not performing properly, the levanter, or whatever it might be, there is plenty levanter, this is a usual thing in Gibraltar, whatever it might be, the fact is that it never used to happen before. Is it because of that, because of the consistency of breakdowns, if I may say so, we kept pressing the Government to do something about it. And on this particular occasion of 1979, October 1979, after pressing the Government very hard that it was necessary to put in new engines, and they said no, no need we are alright for 3 or 4 years because that was the reply we kept getting all the time after consistent pressure. I put a motion on the adjournment and this was the great surprise, the rubbish that the Chief Minister got out of the hat just like that, oh, not to worry, we are now going to install a 5mw Generator and it is going to be done within 18 months, just like that, categorical like that. He took over responsibility at that very moment, apparently in the ante room when he had a little chat there, the decision was made. So all the story that we have heard. from the Minister of the very careful consideration, of options going on for year after year, the Chief Minister must not have even known about it. Because if all these careful consideration had been given year after year, on that particular occasion we would have heard there and then, "No" we are bringing an Engine of 5mw, not what was decided in the ante room on the spur of the moment. This is instant Government of which the Minister for Economic Development so much dislikes. And I agree with him, it is terrible to have instant government of that nature, but of course, cornered, when he knew that he could hold the flood no more, he had to come out with any rash statement, and of course, it has proved to be rash because we have seen what happened, even today you might say we are not running our own Station. That is a fact. We are still at the mercy of Hawker Siddeley. If tomorrow Hawker Siddeley, for any reason went bankrupt or anything happens, and they left just like that, I suppose we would then have a blackout, or we would have to pay through our nose for overtime for whoever it was that would have to go there. That is the situation today, Mr Speaker, having paid, as my Honourable Friend very rightly said over £2million plus, what I said before of not having bought the equipment in time. So, Mr Speaker, apart from the suffering and the inconvenience you have firms who depend on freezers, if they go out for a little while they can suffer losses, I don't know if they have or if they haven't but certainly in the home, no-one in the house is going to start claiming whatever it was that he had in the freezer. that has gone bad. Or he would even have to eat it

in a hurry, whether they liked it or not, but how they were going to cook it I don't know, because they had nothing to cook with, since we have no gas. We also have the question of loss of trade. It was a shame to see how long Main Street, most or many shops with little generators going on to try and keep the lights on. Have we forgotten that? I haven't. Nor have the tourists who probably never came back after that. So when we say loss of trade as my Honourable Friend said, I think you can include that as well. I don't know what excuses managers in hotels had to give their guests. Certainly, whatever they said, it did no good to the image of Gibraltar. And if we were spending money in advertising Gibraltar that was also going down the drain. All losses, Mr Speaker, that cannot be quantified. And then there are of course expenses of families buying cooking apparatus. Well I know that lots of them did. They bought gas stoves, gas bottles.....

MR SPEAKER:

Well with respect I think, with due respect, you can talk about the inconvenience and the expense but not in respect of what the people actually bought. With due respect.

HON MAJOR R J PELIZA:

Mr Speaker, I just repeat this for the sake that no one, so we have losses in respect of cooking apparatus, heating apparatus, lighting equipment, generators for lighting in the shops, all to cover lack of continuous electricity supply from 1977 to 1982. All due to Government's lack of foresight and planning. I hope that that satisfies the Chief Minister. So if newspapers publish that, I think they can be absolutely safe in saying it, because I have said what my friend, for the sake of not boring the House did not say. The Minister, Mr Speaker, I thought, would have had the courage of standing up and challenging the statements that my friend has done, explaining and proving beyond doubt that there was no mismanagement. Surely, I mean, misjudgement in the end, is mismanagement. They go together, a good manager is a man who has good judgement. A bad manager is a manager who has no judgement. There was no good judgement, no foresight, and consequently, Mr Speaker, what we have had is a total disaster in the supply of electricity in Gibraltar for a number of years. And we are still not out of the woods. Now I would have liked, the Minister said that Skid Generators would have cost the same. Forget about figures, Mr Speaker, the facts of the matter are even if they have cost the same, the facts of the matter are that now, we would have those Skid Generators here in Gibraltar to be used in the future. Now we have not got them.

HON CHIEF MINISTER:

We do not need them.

HON MAJOR R J PELIZA:

We do not need them now. I said I don't believe that we are still out of the wood, I hope so, I touch wood, Mr Speaker, but it is good to have those reserves, what is going to cost him nothing, so that because we do not need them we just throw them away, not knowing what tomorrow is going to bring for us. Mr Speaker, I think it is absurd to say that and buying them in this instance was the same and that they cost exactly the same, and I say it is not. We don't have the equipment. If we had bought them at least we would have them. The fact remains that we would have them here, and you never know we might have been able to sell them to someone else. Because I believe that they are very difficult to get those Skid Generators or were very difficult at the time, and perhaps they are difficult to get in other places that might need them. But I am not going to expand on that. And so, Mr Speaker, we go down the list, we go down the list and we find finally the electricity supplied from MOD. Now, no one, again Mr Speaker, can say that if we had been running our business in the proper way, this amount would have had to be paid. But there is no explanation of just proving that this, whether or not the generators have come here, the good ones have been there installed in time, we would still have had to require this from MOD. This of course does not make sense. If that generator would have been working properly, we would not have required this supply from MOD. I feel one little thing here and there, maybe, but not that amount. Not £152,000, Mr Speaker. Now I don't think that the Minister has in any way, convinced anybody that he has control of the situation or that he has ever had any control of the situation. His performance in this House right from the beginning is absurd. And then the Chief Minister could have seen long before that there was a case, but perhaps he can't because his hands are really tied. He cannot change the Minister for Tourism, he cannot change the Minister for Municipal Services. We have a Mayor who is not a Minister.

MR SPEAKER:

No, no.

MAJOR R J PELIZA:

Mr Speaker, there is a Committee which is performing the duty of Government in Gibraltar, because obviously the Ministers

are incapable of tackling the work that they have to perform. This is the true situation. And as far as the electricity is concerned, we have seen it clearly as the motion to the adjournment, it was he who came along and made the announcement. The usual announcement of the 5MW generator. It was he, he had to take this matter in hand. Surely those are the things that the Minister should have done, notwithstanding the failure up to that point, he allowed the situation to continue to this day, Mr Speaker. And this is why I agree to the motion, and I hope he can prove, and I hope he makes a better performance than the Minister to try and disprove everything that has been said in the motion, and above all, to bail himself out of the situation that he has got himself into. And this we shall have to hear, Mr Speaker. But I really congratulate my Honourable Friend for the interest that over the years he has taken on the Generating Station that he did not want to go and see the new one, I do not blame him. I would not like to identify myself with the Minister for Municipal Services any more than I do for the Minister for Tourism, I said so clearly the other day. I cannot see what shame he can bring to the Department by the Opposition visiting his office. Is that going to put matters right. Oh, no, what is required is that the Minister should walk out of his office and allow him to take control. That I agree with entirely. But to go to the office and perhaps even say, later, "Well we knew all about it, and they did nothing about it" that is a terrible situation to get into. One that I would not get with Tourism, and I don't blame my Honourable Friend that he did not. He said that when he went he was going to be lynched. Why did he want to be lynched? Why? I mean the Minister does not know, but was it because he was going to put order? Is it because in fact he was going to start governing was that why he was going to be lynched. For what other reason could he be lynched. Was it that they feared that if they took over, there was going to be some firm direction in the Station. I would like to know if the Minister can amplify that matter. Why lynched, maybe the Chief Minister might say so. Because I have never heard my Honourable Friend say anything here which is insulting to anybody in the Generating Station, except to bring out the salient points which I think is his duty to do. And which he has done, I think, excellently. The amount of information that the Member here has is much more and we have seen it here, much more than that of the Minister, and he has no civil servants to back him, no readily available papers from the Government. He has done it all by asking questions and then compiling together all the information. I think if I may say so, my Honourable Friend has got to be congratulated, and I think that Gibraltar does owe him a debt. Because God knows what would be the state of the Electricity Undertaking today, God knows, what it would

be, if my Honourable Friend had not been pressing his foot in the way he has. So, Mr Speaker, I think that in this instance, the Opposition has performed its part to the best of our ability, with sincerity, objectively with the only intention of trying to make the Government to put its service on a proper footing, a service which in our daily lives is vital to everything that goes on. Especially to hospitals, Mr Speaker, to the elderly people, to commerce, in every direction that you look, Mr Speaker, in this day and age, electricity is vital to keep up our standards of living, and even our necessities. This is why I think the Opposition has done its best to try and make the Government conscious of their duty and unfortunately, I must say that we have not succeeded as quickly as we had hoped.

HON CHIEF MINISTER:

Mr Speaker, the other day in the Tourist Debate, I said that I often wondered how a man who has held this post as Chief Minister for 2 years and 10 months, speaks with such crass ignorance of things in Government, and it has been confirmed today. The Gallant Member stands up and he speaks whatever rubbish, amounts of rubbish, he thinks, and I will show him how much rubbish he has spoken. In the last debate, in last year, in October, I said, I used the word which my Friend has picked up now, that the Leader of the Opposition was flogging a dead horse, well he is still flogging it, they are still flogging it, and I think it must be unique in the annals of parliamentary democracy, that after winning an election, despite all these problems that the Honourable Member has nearly made us cry about the power cuts, because the bulk of the power cuts were before the 1980 elections and after winning an election, then we are being brought here, on a vote of no confidence for something that happened in 1976, when had those votes of no confidence been attempted they would have been successfully beaten by the electorate as shown by the results. I do not know, maybe in the year 2000 they will still be talking about the Preece, Cardew and Rider Report of 1976, from that side obviously. And what is this about the Government needing a vote of no confidence, the Government needs a vote of no confidence from 6 power hungry politicians who want to be re-elected with 2 others in order to be able to oust the Government, that is what it is all about. It is a little Debating Society we are having today because all that they are doing at this stage, which they can do nothing effectively, is trying to see whether they can determinate and bring back in people's memories the difficulties we had in 1979 and 1980. Of course, it is likely that there is to be an Election, certainly before May, and perhaps some people think before, and therefore, this is the time to bring in all motions on all sides, to be able to show what wonderful things

the Government or the success of the Government who were never able to make it for a whole term could do. And for the Honourable and Gallant Member, to look at these figures as debt losses, show his crass ignorance, for example, he spoke about the £152,391 paid to the Ministry of Defence for power. That is exactly the amount that we collected from consumers, we have not lost a penny there. Not one penny, and here he is quoting on the debit side. If you are buying electricity and selling it at the price that it is costing you to produce, you are not losing a penny, so that figure is out completely. Then he talks about the Skid Mounted and the other Generators. They produced electricity. Unfortunately we have not got figures, not only available, but figures without much research as to the relative production of those, perhaps the advantage of tying us over a difficult period, but it is not just another amount to put on the debit side, those generators produced electricity. In fact, we are being told, we should not have sent them away, they should still be spoiling the view of the Line Wall, in order to be there just in case. Well I am sure that it could be proved that that was not the case. Now the payment of Hawker Siddeley Power Station, that has been said here, there again, that is not a complete loss. It would have cost us about half that money to have run the station ourselves. There is one area which requires a little elaboration. Before that I will deal with one other bit of nonsense on the part of Mr Restano, in respect of comparing the seven or eight or nine thousand pounds on the Preece, Cardew and Rider Report of 1976 and the cost of £200,000 odd of Preece, Cardew and Rider, in respect of the New Station. And this shows a complete and utter lack of understanding and ignorance of the difference between a consultancy for producing a Report as opposed to the involvement in an engineering project worth over £7million requiring change, checking of designs, calculations by contractors, production of drawings, attendance at sites, and manufacturers works and meeting inspections of equipment and site works including witnessing of tests. In fact a continuous sustained involvement of many engineers, inspectors and drawing office staff, during the design, manufacturing etc, of the works and warranty periods. Two years, two years work of servicing a project worth £7million. A slight difference between that and writing a Report which is just produced after getting figures and getting a few Consultants to write the Report. That shows the ignorance that the Honourable Member has, or his total blindness in order to be able to make some case in his hobby horse of the Power Station. And in fact, by comparison, the Consultancy for Waterport is cheaper than the 75/76 Report. Specially since it involves direct responsibility for the performance of plant and building which could carry very heavy financial costs in the event of any failure through any fault of their own and not a case of just an

Advisory Report. So that is another aspect. Now there is one aspect which I think, and the other thing of course is that in the last debate, I noticed that I made rather a long contribution and I would refer for the record, to what I said, I am not going to read it. But I do not propose to go over all of it again, I do not propose to waste the time of the House by repeating everything I said up to, except one point with which I will deal now and which is applicable today. Because Members opposite choose to repeat motions of censure, even in respect of periods prior to the last election, which was the worst time we ever had, I am not going to play that game. There is one aspect of it, which I think it ought to be plain, not only for the benefit of Honourable Members opposite, which in any case do not pay any attention to what we say here, unless it can be used against us, but for the purpose of the public. And that is the prolonged period of gestation of the Steering Committee. First of all, as the Minister claims, there was a difficulty in getting a Chairman, and finally through the offices of the Industrial Society, which is a big prestigious Society in the United Kingdom which provides the know how in respect of people, we were able to get the Chairman. Let me make no apologies to say that it has been an expensive experience. Whatever time it would have cost, the cost has been expensive. But let us see what is on the other side, what the lack of getting the thing properly run would have landed us into. And that is that over the years because of the difficulties, because of the going back to 1972 and because of the muscle that certain members in the Power Station could use which really ended up by producing power cuts, that we had to make sure, we had to make sure that the Work Practices that had developed over that period, some of which, really, are very cumbersome, and not likely to produce good results, it was necessary to ensure that the practices exercised at the Power Station at King's Bastion should not be perpetuated at Waterport Power Station. Now I know it may be unpopular. I know it can be said that we have spent £100,000 on its Chairman. First of all, the Committee of Enquiry thought that it would take about 9 months and we have just gone over that, and I hope it will be much longer. I think that everybody does wish that the work of the Steering Committee should finish. But it has been very difficult, very, very difficult indeed to get through and get what is required which is a Work Charter accepted by the workers of productivity systems that will ensure that the Power Station on which we have spent so much money is run properly and free from unnecessary industrial disputes and unnecessary problems with the workforce. It was to ensure, and it is to ensure that the Work Practices which led to such disasters in the 70's, the end of the 70's should not be reproduced in the New Power Station. To have completely different Work Practices, Productivities, Measurements and

so on, because it is a very important Power Station, to which we may soon be adding another Engine. And that is going to be the source of electricity supply except for King's Bastion North, that is going to be the source of electricity supply for a very long time to come in Gibraltar. And we have to make sure that the people went there with Work Practices that had been negotiated with them, away from Work Practices which had developed in the Power Station, unfortunately through difficulties with the power. As for which, if I may say so though at times with some set back from the workforce, certainly the trade union leadership and Mr Bossano is not here, but I have no hesitation in saying that he has been instrumental in helping the men to negotiate acceptance of the Work Practices. And the proposed Agreement of which I have seen a draft and which is a rather heavy document which the Union will hopefully agree to and which sets out the practices beyond any doubt. So that there is not only a workforce that will not create problems but that it will be a workforce which in new surroundings, in a beautifully designed and well equipped Power Station, with all the facilities possible, there will be no need to have any problems in the future. That is really the reason for the time taken by the Steering Committee and which requires a public explanation which I gladly give. Because that is something that has arisen since October of last year, since by the time that the debate was taken in October last year, the Steering Committee was about to start. Now, going back on the question of the marvellous production of figures by the Mover, most of which have been made negative completely by the explanations I have given except to the extent that there is no income out of the industrial relation heading of the Chairman of the Steering Committee, but would be in the long term a very great saving if the New Power Station is run on terms that does not produce problems, like in the past, with the workforce, the hire of the generators as I have stated have produced electricity and helped the payment to Hawker Siddeley until we have the workforce in condition to take over its just about double of what the cost would have been if we had not had that. The electricity supplied by the Ministry of Defence which is completely negative by the fact that that produced electricity which was billed. In fact, the units billed in the year 78 to 79, were £1,928,342.49. That year the budgetary contribution was £634,000 odd, I am not going to circulate this as a piece of propaganda and the surplus was £176,452. In 1979/80, the amount of electricity billed was £2,821,798 and the, that is interesting and the budgetary contribution was about half £350,000, and there was a surplus of £217,248. And in 1980/81, the amount of electricity billed was £3,336,053, the contribution was £289,000 and the surplus was Nil. And this year, of course, the 81/82 the bills the units billed amounted to £6,612,525 and the budgetary contribution of £623,400 and a

surplus of £135,722. Well, I think it has been accepted generally as a matter of policy and I think this has certainly been supported by one Member of the Opposition, and that is that if we are a self contained unit, as we have to be in electricity, the cost is higher than is normally the case where you belong to a bigger grid, as the Honourable Minister was explaining before, and therefore to the extent that that is something beyond the power of the consumers, the general body of tax payers make up for that healthy contribution which have not been in fact objected to in the past, hence the contribution in water, hence the contribution in housing. It is the contribution that the general body of taxpayers pay for the provision of these essential requirements of the community which need help from the general body of taxpayers. And therefore, Mr Speaker, at this stage in the proceedings, with an election which took place in 1980, which put behind all the suffering and all the cups of tea and all that to which the Honourable and Gallant Major was referring to, they made their best at the 1980 elections and were unable to move out in respect of our status in the community and I am quite sure that the same will happen this time, if and when, or when we have an election, there may be a coup, I don't know, if, yes we may have a coup, a coup from the Majors, the flying Majors, so the rest has been left behind in 1980, why bring back Preece, Cardew and Rider in 1983, end of 1983 when the 1976 Report was flogged to the limit in the 1980 Elections and the people did not pay any notice, despite the fact, and I must say, that this in no way diminishes the concern and the suffering that the people, unfortunately, went through. Circumstances beyond our control for many reasons, that we need not go into, if we are going to look to the future with a sense of confidence. The continuity of supply is going to be the same as in the days when we run the City Council when a stoppage of supply of 3 minutes required a minute justifying it. But we are living in different times now, Mr Speaker, and we have to make sure that the Work Practices and hence the £4,900 which is set out for bringing the British Electricity and National Consultancy, that is one consultancy for producing productivity which was specifically recommended in the Committee of Enquiry Report presided over by Sir Howard Davis. We are doing no more than that, and in so far as putting the £25,200, again, as a weight, this is something which will help to provide the electricity with the necessary know how. For a former Chief Minister to say "you do not need to appoint someone just to know what the tariffs are going to be". Of course you need to know the extent of the cost per unit, the time of the day, the amount of power you must have at a particular time, the flow of the month the flow of supply, and so forth. You must have experts to tell you whether you are on the right lines, even to get the same amount, moving one kind of structure from the other. To put that there is

the advent of folly and ignorance and cross disregard to the intelligence of other people. Mr Speaker, it is no question of saying we are not going to support this motion, of course we are not going to support the motion of six people who want to try and bring this Government down at the last moment, or knowing that they won't try to make the best of it in this forum. And perhaps giving another opportunity for the Gallant Major to show his lack of having learned anything in the 2 years and 10 months of glorious IWBP Isola Group mismanagement.

HON P J ISOLA:

Mr Speaker, yesterday, sorry, on Friday, I think it was on Friday, the Honourable and Learned Chief Minister was congratulating his Minister for Tourism on his well researched and cogent argument expressed in a lengthy speech in reply to the motion of my Honourable and Gallant Friend Major Peliza. I am afraid that we cannot make such remarks about the speeches of either the Minister for Municipal Services or the Chief Minister. They have obviously not been researched, they have not been prepared carefully with a view to rebutting the very well researched opening of my Honourable Friend Mr Restano when he moved the Motion. There has been little or no attempt to answer the gravamen of his statement. Well, I have a certain amount of sympathy for the Government in this one, I have a certain amount of sympathy because I appreciate that this is one of these motions which are highly embarrassing to any Government especially when there is really no answer to the Motion. The Government has to vote against, of course, it is a motion of no confidence, how can they vote in favour of a motion of no confidence. And I am surprised that the Chief Minister with his long parliamentary experience should complain that the Honourable Mr Restano should have moved a motion that must inevitably be lost, and that therefore he is moving it purely for election purposes. Well, how does a democracy work, how can a parliament work? How many times do oppositions in every parliament in the world put motions of no confidence and get defeated? Time and time again. But the purpose of the motion of no confidence Mr Speaker, is to express the concern of one part of the community at the situation, the part represented by the Opposition. It is a way of expressing our concern at a situation that is highly unsatisfactory Mr Speaker, by any standard. Yes, the Motion is coming barely three months or two months or one month before the dissolution of the House of Assembly and fresh Elections. It is necessary in those circumstances to remind the electorate of this more scandalous situation where Power Generation is concerned. Mr Speaker, it does not come any nearer to an election than the statement of the Chief Minister at the end of October 1979, telling the public after a bit of a consultation in there that there would be a 5mw Generator in operation within 18 months.

Was that electioneering? Looking with hindsight, it must have been electioneering, because the Minister for Municipal Services has today told us that they acted as a responsible Government, when after looking at everything after the elections, and after their majority in votes had dropped dramatically, they have looked into the matter carefully, and they have behaved like a responsible Government, by deciding on the construction of a New Power Station. But where does that leave the statement of the Chief Minister in October, 1979, Mr Speaker, as a highly irresponsible and inconsiderate statement. When he said we would have a 5mw generator in operation within 18 months, and did not tell us that it would be part of the new Waterport Power Station and so forth. You cannot have it both ways, Mr Speaker, you cannot say something is irresponsible, when the Opposition say, it and not irresponsible when a Member of the Government side says it. And I would dispute very strenuously the statement made by the Honourable and Learned Chief Minister that we are flogging a dead horse, that all the power cuts took place before the last elections. That is not so, Mr Speaker, a lot of power cuts took place during the period of 1978, a lot of power cuts took place during most of 1979, but miraculously halted, miraculously halted at the beginning of December 1979 at what cost to the consumer no one knows, miraculously halted at the beginning of December 1979, and stayed halted, until February 1980, 3 months later, just after the Elections. But that was not electioneering, but after the elections, Mr Speaker, but after the elections Mr Speaker, we had during 1980 a whole set of power cuts, or have the Government got such a short memory. And let me put it to the Honourable and Learned Chief Minister and to the Minister for Municipal Services, is it unreasonable for a responsible opposition to put down a motion of no confidence when after those periods of the whole life of the parliament, the power situation has still not been straightened out. Is it irresponsible? They may have good reason for this. The Honourable and Learned Chief Minister has talked of the problems he has had with the Steering Committee, we do not know about them by the way, Mr Speaker, because the Government hasn't told us a thing about it during the last 2 years, in question time, they have not been able to, they have refused to tell us what have been the problems.

HON CHIEF MINISTER:

Perhaps the Honourable Member will give way, and I will tell him why, and this has been said here over and over again. And that is that when you have negotiations between management and workers, until they are finished you do not debate, you want to have them succeed, and that is the very simple reason. And it has been stated many times, but the Honourable Member, when he chooses he does not, but he may remember the power cuts of February 80, but he forgets all the other statements that we have made about that.

HON P J ISOLA:

I thank the Chief Minister for his explanation, Mr Speaker, but the fact remains that four years of this Government, four years, they have still not solved the Power Generation problem of Gibraltar, and they are still talking of having to have an additional generator in Waterport.....

HON CHIEF MINISTER:

I am sorry but I think he has got it wrong. No, no, no, I said that that was an extension for the future to add one more, I did not say that it required now, I only said that the plans were being made for the future that is what I said.

HON P J ISOLA:

But we have been told that application has been made to the ODA, I think it was the Minister for Municipal Services, who said it, for another generator there. And the Chief Minister tells us, Mr Speaker, we are flogging a dead horse with the Preece, Cardew and Rider Report, that Report of 1976, well if it is a dead horse, and if it is a Report that is so ancient and no longer relevant to our modern needs, why does not the Government publish it, it wasn't published in 1979, because as the Minister for Economic Development pointed out to the House then, they were not going to give ammunition to the Opposition for the elections, but the elections went past, the Government got re-elected, perhaps they might not have been if the Preece, Cardew and Rider Report had been made public, but anyway, they got re-elected, 4 years have gone by and the Preece, Cardew and Rider Report, still remains a closed secret. So it must be relevant to the Gibraltar of today when the Government refuse to publish it. And of course, it is the root of the problem as far as this subject matter is concerned, the Preece, Cardew and Rider Report is the root of the problem. There were the recommendations about what the Government of Gibraltar should do, and the Government of Gibraltar did not do it, and thereby, Mr Speaker, hangs the tail of the Power Station. But this motion, Mr Speaker, only goes back to 1976, and to the problems of 1979. Because it is necessary to do so, historically, so he is complaining of what has happened ever since this Government got elected in 1980. Their term of office is about to die and they have still not sorted out a problem which they said they would sort out, that the Chief Minister said so in October 1979, that he would solve it in 18 months. And they have not. And all they can say in this House today is talk of a Draft Agreement in the Steering Committee, and we do not know, Mr Sepaker, we just do not know (a) whether this Draft Agreement will be signed, (b) we do not know when the Government is going

to officially take over the Waterport Power Station, we still do not know that, we do not know that today. I am sure there must be a tremendous amount going on behind the scenes trying to get the staff side to sign this Agreement so that the Government can rush into occupation of Waterport Power Station and show it to the public just before the election. But that would not be electioneering, Mr Speaker, that must be a moment which the whole of Gibraltar must be proud we will be told. And of course, as the whole of Gibraltar must be proud of the new Waterport Power Station, if only they can see it. And, the Honourable and Learned Chief Minister, Mr Speaker, attempts to discredit the research that has been made by my Honourable Friend, the mover of the motion, in his little paper, which he has circulated to Members opposite and which I hope he will make available to the press, because it does give such a clear picture of the situation, of the cost, I hope my Honourable Friend will make it available to the press, I hope that my Honourable Friend will make the paper that he has circulated available to Members opposite, on the cost of incompetence to the press. I hope nobody can object to that. Certainly, as far as I see no one can. Because it does identify the cost to the taxpayer. The Honourable and Learned Chief Minister, Mr Speaker, has been talking about the budgetary contributions from the general body of taxpayers and so forth, to electricity over the years, and he says it is quite right like in Housing and so forth, and no one would quarrel with that statement. But the fact of the matter is that the budgetary contribution has to be that much bigger if the Government is incompetent. And the trouble is that the general body of taxpayers do not really appreciate, that by wasting or throwing away a couple of million pounds, prevents them, prevents them from getting new houses, prevents people with elderly pensions with having them free of tax, and presents a whole lot of social improvements. And the Members opposite laugh and say "come on". I don't see how they can dispute that. That money, these £2.2million have come from the general body of taxpayers. These £2.2m could have been used....

HON CHIEF MINISTER:

No, no, ten times no.

HON P J ISOLA:

Could have been used to reprovide the St Mary's Infants School at Town Range sooner than it has been done today, and a generation of school children 6 - 8 could enjoy those facilities, Mr Speaker. That is the burden of the motion of my Honourable Friend, and that is the reason for the cost of incompetence in the paper that he wished to circulate.

HON CHIEF MINISTER:

Did the Honourable Member hear what I had to say about the item of MOD.

HON P J ISOLA:

I did...

HON CHIEF MINISTER:

Or does he not understand when he does not want to. Or is his mind so twisted that he does not realise that there are truths that he does not like.

HON P J ISOLA:

And I am going to deal with that Mr Speaker. The Honourable and Learned Chief Minister gets very excited on occasions.

HON CHIEF MINISTER:

You would make anybody excited with your arrogance.

HON P J ISOLA:

If he would let me continue I will explain what I mean. The Honourable and Learned Chief Minister says electricity supply from MOD £152,391, but we have got electricity for that. Of course we got electricity for that.

HON CHIEF MINISTER:

And we got money for it.

HON P J ISOLA:

Yes, but the overheads of the Government in the Electricity Department were just as high throughout the period of time that we were buying electricity from somebody else.

HON CHIEF MINISTER:

It avoided the run down on our station.

HON P J ISOLA:

It avoided the run down. Now, Mr Speaker, let me carry on. Let me carry on. The criticism of the Skid Mounted and Trailer Mounted Generators and the reply, "but we got

electricity for it". Yes, but our overheads stayed the same, we still had to pay for these electricity generators. We have had to pay for all that because, because the Government did not provide the people, did not provide people of Gibraltar with a necessary generating capacity, and in 1979, Mr Speaker, when the Chief Minister goes back to the last elections he did not tell the public in the hustings that two months after the election the Government would have hire Skid Mounted Generators at expense to the public, he did not tell them that. What the Government said in the elections, 'don't worry, the electricity situation is under control. Look you have had no power cuts, December and January, and we are getting a 5mw generator. That is what they told the people in the elections, but as soon as they come back to this House after the elections, they incurred public expense of £660,000 in obtaining temporary generating capacity. Now, Mr Speaker, if that is not a legitimate cause for concern by an elected Opposition, I do not know what is. And I think that what my friend has put down there is perfectly justified and perfectly appropriate in the circumstances of this motion. And then, Mr Speaker, the payment to Hawker Siddeley Power Engineering. I have not heard, I have not heard during this year in this House a cut in expenditure in the Electricity Department to reflect the fact that most of our power is being generated by Hawker Siddeley. I have not seen a cut in the vote of the Electricity Department. If there has been, perhaps some gentleman opposite will point them out. The cost estimated here for running the Generating Station in Gibraltar for 1983 and 1984 has not been reduced by the fact that Hawker Siddeley is in fact working these two engines themselves, and producing at the time 80% of the power required in Gibraltar. What is happening, how is it that a department that produced before 100% subject to a few purchases from the Ministry of Defence, 100% of the generating capacity or 100% of the generating power required in Gibraltar, costs us exactly the same when they are only producing 20% or 30%? Now should not my Honourable Friend, isn't he being rather charitable to the Government in his cost of incompetences, should he not have added a figure for that as well? I am sure he did not forget about it, he is a very fair man, and he wants to be as fair as possible. But, Mr Speaker, for the Chief Minister, or for the Minister of Municipal Services to say quite glibly, to say quite glibly, £1,300,000 to Hawker Siddeley. Well it would have cost us half that if we were running the power station ourselves. So it is only costing, you, the tax payer £6,000,000 odd. Is that not an amount to be concerned about, Mr Speaker? But the truth of the matter is, Mr Speaker, that he is completely wrong in these statements. The truth of the matter is that Hawker Siddeley is being paid £1,300,000 or has been paid so far this amount, and we do not know how far it will continue for, £1,300,000, whilst the

Electricity Department still costs us the same to produce much less power for the community than they may have been doing in the past. Does the Government have an explanation for that? So it only leaves me Mr Speaker, to comment on the last question, the cost to the tax payer of having a Chairman of a Steering Committee, that has been in post for 66 weeks. Well over a year, well over the 6 weeks stated in this House originally, when we were told the cost of it, well over the period of 6 weeks, as stated originally in this House by either the Minister for Municipal Services or by the Chief Minister. Well over that, 60 weeks in fact, was it not the Minister, I am told, well then it must have been the Chief Minister. Well over the period of 6 weeks stated here, and well over the period of 9 months that the Committee, not just over, Mr Speaker because when you are talking of somebody that costs you £2,400 a week, then an additional 12 weeks is quite a lot of money, and this man has already cost the Gibraltar tax payer £110,915. And, we have the Committee of Enquiry, the final Report that was made, summarised the recommendations into 37 recommendations. We don't know what the Government has done or what has been implemented or what has not been... implemented. But what we do know, is that our power situation problems are still not resolved in the areas that matter, but we still, what we do know is that because the present administration has not dealt with the power problems efficiently, or in accepting recommendations made by a Report, it has cost the general body of taxpayer's in Gibraltar over £2million of money that need never have been spent on this if the Government had acted responsibly in the question of power generation. It need never have been spent, that money could have been spent in housing, it could have been spent in social amenities, it could have been spent on a lot more things, far more usefully, Mr Speaker, than just being thrown away. And why is the Honourable and Learned Chief Minister censured, as well as the Minister for Municipal Services in this motion. Because I suspect that it would be unfair in this case to put all the blame on the Minister for Municipal Services because it is quite clear ever since this problem was brought to the fore by my Honourable and Gallant Friend Major Peliza, back in October 1979, it is quite clear that the Honourable and Learned Chief Minister has taken a leading role on this issue, as rightly he should, because it is a vitally important issue to the community. And it is at the end of the life of this parliament, the problems relating to power generation and the management and the staffing and the manning levels of the Generating Station has still not been resolved, then Mr Speaker, by any standard the motion of censure by my Honourable Friend Mr Restano fully deserves the support of this side of the House and of the people of Gibraltar, even if the Government cannot of course, support it. Thank you, Mr Speaker.

MR SPEAKER:

Are there any other contributors? I will then call on the mover to reply. Are you going to take long or you might wish to start and then leave it because we have got about 5 minutes to go...

HON W T SCOTT:

Mr Speaker, perhaps I would not have intended to speak on this part because I would have wanted to spend a little bit of time in my contributions.....

MR SPEAKER:

Well I did ask for contributors.

HON W T SCOTT:

Yes, Mr Speaker, but on that basis I was caught a little bit off hand so perhaps I might be able to shorten it, and I might finish before the recess.

MR SPEAKER:

I do not wish to see you speaking and being inhibited by time. I was hoping that if there was no other contributor that the Honourable Mr Restano should have exercised the right to reply. If this is not the case, perhaps we can now recess till this afternoon at 3.15 sharp.

The House recessed at 12.55 pm.

The House resumed at 3.20 pm.

MR SPEAKER:

I will remind the House that we are still on the motion as moved by the Honourable Mr Restano.

HON MAJOR R J PELIZA:

Mr Speaker, there is one point I would clarify in the motion if you will allow me to clear one point in the debate, on the motion that I brought to the House on Friday. It is only a question of clarifying a point which I think inadvertently no doubt, the Minister I think has misled the House.

MR SPEAKER:

That he has got a matter of clarification in respect to a

statement made by the Minister on the debate on Tourism and he would like to clarify it.

HON MAJOR R J PELIZA:

Mr Speaker, the Minister said that in October, the Rock Hotel had been full. In fact, I made enquiries and the best night in the Rock Hotel was the 20th October 1983, in which there were two groups which overlapped and that filled up 83 rooms, there were others in 34 rooms in house use which is rooms that they could not let. They said of course that is perhaps where the Minister might have got it. They informed their office in UK not to send any tourists in quantities, because of course they overlapped and they could not fill them. But, but, there were therefore 40 rooms which could not be occupied.

HON H J ZAMMITT:

Mr Speaker, I am grateful that the Honourable Member has raised that. I raised that because we were informed from England that the Rock Hotel had given instructions that they were not to offer big parties because they were full. I was aware that they were not full for the complete month of October, and I hope that I did not give that as a matter of implication. I did say in trying to put forward the fact that we had encouraged during the shoulder month conferences of which the Rock Hotel in particular had had a particularly good session. I was aware that there were a few empty rooms, but I was aware that the Rock Hotel, was for the first time ever, unable to take up big parties.

MR SPEAKER:

Right are there any contributors to the debate? Yes, Mr Scott.

HON W T SCOTT:

Mr Speaker, it is since 1976, that the motion says that there has been a mismanagement, or a lack of proper management within the Government, and it is that in fact, which I would hope to take some points that have already been mentioned by members on my side of the House and develop perhaps one or two of them. But I think it is necessary before I do this, and I feel bound to say that our understanding of the functions of this House, on both sides of the House, as indeed I think other legislatures in democratic countries, is to provide a forum, a public forum, where the public accountability of the representatives of the elected representatives of the people should take place. And it is within that ambit, very much to that ambit that the

motion and similar motions are brought to this House, and on that, Mr Speaker, I remember very distinctly that in Friday's debate, the Minister for Tourism and Sport accused my Honourable Friend, the Honourable and Gallant Major Peliza of not bringing enough substantive motions to this House. He was later proved wrong, but I feel quite frankly at a loss for words to understand, how on Friday a comment like that is made, and yet earlier on this morning, an accusation is made of my Honourable Friend Gerald Restano, accusing him that it was unnecessary to bring a motion like today's to this House. I mean, it is very hard to understand what the Government thinks the role of the Opposition should be. And quite frankly, Mr Speaker, if one is to judge from the performance of this Government in the Electricity Undertaking, I feel bound to say that I don't think they even know what the role of the Government should be, let alone the role of the Opposition. Mr Speaker, this morning, the Chief Minister in trying to justify the expenditure of £270,000 which I think has been paid to PCR for their consultancy, he mentioned, and I think quite rightly that they had been responsible for the constant monitoring of the work, probably from its inception, they had drawn up comprehensive detailed specifications, they had provided on site facilities they were acting generally on behalf of the Government and protecting Government in its entirety, but he did say one thing that I don't think is quite correct, according to our information. And if one is to accept that that project, Waterport Power Station was a turn key project, or be it with very detailed specifications submitted by the consultants, all tenderers, tenderers were responsible to a very high degree of the design of that Power Station. And the Chief Minister said that detailed designs and drawings had been prepared by Preece, Cardew and Rider, which I think is not entirely correct.

HON CHIEF MINISTER:

I have actually the words I used, because I had a brief on this one which I had asked for, and I did say "requiring changes, checking of design calculations by contractors, productions and drawings". I did not say they had done it.

HON W T SCOTT:

I am grateful for that because that was my understanding and I am grateful for that correction. Mr Speaker, the Honourable Minister for Municipal Services, also, I think himself, very quickly, after having accused the Honourable Mover of having thrown a number of red herrings, I think threw one himself when he compared a small undertaking like Gibraltar to that of the national grid in the United Kingdom. When he talked about a

subscriber in London might perhaps be fed by a power station in the North East of Scotland, or words to that effect, and he said that of course, as soon as one machine goes off there is a power cut, and I don't think that is true either, and it certainly wasn't true until such time as we had these massive power cuts from 1978 onwards, we had never had power cuts, even if one machine went off or three, and that was very definitely a red herring.

HON DR R G VALARINO:

We did have power cuts, but the problem was that we had far smaller sets in those days, therefore, the amounts of power cuts were to some extent unnoticed by the general public, whereas now we have much larger engines, therefore the power cuts affect much larger districts.

HON W T SCOTT:

Mr Speaker, I remember very distinctly that when perhaps one engine went off stream, there was a voltage reduction and no power cuts, and I think we all remember if we were watching television how our screens used to go a little bit smaller. There were no power cuts as such, and that is what we are talking about, power cuts, not a cut, not a cut in the voltage to the home, but I do not want to get too technical. Mr Speaker, I feel I also must mention, I think it also occurred on Friday morning when the Chief Minister interrupted one of his own Minister's contributions, and I think it was directed at me, and he made a remark to the Chair, saying that it was not within the conduct of the House to grin every so often, or to whisper asides, or words of that nature, and after having said that Mr Speaker, I was very surprised to see not only the number of occasions on which the Honourable and Learned Leader of the Opposition's contribution was interrupted this morning, but the manner in which he was interrupted, even without being asked to give way, as I have done just now on two occasions. I make no hesitation in giving way again, should any other member want to interrupt me. Mr Speaker, but the point I would like to develop was that which was originally mentioned by the Honourable Mover, taken a little bit further by my Honourable and Gallant Friend on my left. That was that the cost of incompetence as we see from the sheet is £24million, and I would venture to suggest Mr Speaker, that this figure can perhaps quite comfortably be tripled. And I will explain why. When it was first found out, and I have no doubt over this, that Gibraltar, because of its development projects was very quickly being taken to a situation where there was not enough power that could be generated, and I think this occurred as a result of the Report,

or because of the Report in 1976 by PCR, Government obviously did not take the required recommendations of that Report and at the end of my contribution I will make perhaps two comparisons why I think this was so. But coming to 1979, because the decision had not been made by the Government, which could have been implemented in the 78-81 Development Programme, included within that Development Programme, money coming from the ODA for a New Power Station, and perhaps a better sited Power Station as well, and not in the area of the port, but in years to come could well be used to earn Gibraltar much needed money, that decision not having been made, money did not come from the ODA, the Power Station was not built, leading to a situation where in 1980, the resources of Government determined that not enough cash was available, but yet the Power Station had to be built at a cost approaching £7million. Money that had to be borrowed, money that had to be borrowed with its consequential servicing interests, and if we look at the Consolidated Fund Charges, even this year, between interest in repayment it is in excess of £1 million. Last year £¾million. How far into the future do we project ourselves? The Station costing the tax payer £7million or is it nearer £12million or £13million. And we are not talking about 76, we are not even talking about today, we are talking about for very many years in the future. Not £2¼million, Mr Speaker. And I think that the Honourable mover was very kind to Government to limit his figure to £2¼million. And that is an inheritance that the local Government has given the people of Gibraltar for many years to come. Mr Speaker, coming back to the two alternatives that I mentioned could have possibly been within the PCR Report in 1976, I can only draw one of two conclusions. If in 1976, Preece, Cardew and Rider recommended that there were no further power requirements for Gibraltar and that no Power Station should have been built, then they obviously have been proved wrong and they should not have been re-employed by Government at a cost of £¼million. The only other alternative that one can read into that Report is that PCR did recommend that we should need more power requirements immediately after 1976, and not in 1980, or 81, 82 and 83. And that is the indictment Mr Speaker that the Government has and is the substantive element of the motion that my Honourable Friend has brought before this House today. Thank you.

MR SPEAKER:

Are there any more contributors?

HON MAJOR F J DELLIPIANI:

Mr Speaker, as the previous Minister for Municipal Services in 1976, I think I should contribute something towards this

motion. To me there was never any doubt in my mind that Gibraltar was reaching a stage that because of its development we were going to require extra power facilities in the future, I go with what the Honourable Member opposite has said. But when one is in Government it is far more difficult to get things going than one realises from the opposite side. I have never been on the opposite side, but one always has to look at things in the context of economies, of the whole economic situation of Gibraltar, etc, etc, who the personalities involved are etc, etc, etc, because we are a small community, we are a small government, personalities come into it. I think, and not because he is not here, but I have said it when he was here, I told him whilst he was here, we were delayed to a considerable extent and it has probably been mentioned in the debate already. We were delayed in the implementation of extra power in the Generating Station as early as 76/77, by the then Financial and Development Secretary, who every time we talked to him about money, he would say no there is no money. We were also delayed by an Economic Adviser, a Scottish chap, who kept insisting that we should not do anything on our own, we should do it with the Spanish mainland, and his arguments were all in fact, that we did not need a Power Station in Gibraltar, that all we had to do is connect with the Sevillana and come to an agreement. The third obstacle which delayed the question of the buying of extra sets for the Generating Station was at least a 9 months delay, initiated by the then Financial and Development Secretary on a then Joint Services Scheme, to provide power for the Ministry of Defence and ourselves. I am just telling you how it was, I am not denying that there was a need in the growth of power, I am just saying the ways the Government was trying to do it, to try and find the best possible method of doing it, as economically as possible for the benefit of Gibraltar. But there were delays, and delays, and the answer was that we did not have any money, any money, any money. And to my knowledge, money suddenly came available because we had a Financial and Development Secretary, who gave it a totally different approach as to the way and how and the extent that we could borrow money. Which was contrary to the way the previous Financial and Development Secretary was thinking. So, as soon as this man came on the scene, and I think that Honourable Members should know that the money that has gone into this New Waterport Power Station was not paid by Overseas Development Aid, it was paid by money raised by us, through the ability of the Financial and Development Secretary to prove to himself and to us that we could do it, whilst the other chap kept saying that we could not do it, backed by an Economic Adviser, who said we should switch on to the Sevillana. And it is true, I mean that is the truth because I was involved, as early as 76. I think we have all tried on the Government part to restrain ourselves from putting the

blame on one person or another or to one group or another, except for myself, I just blamed two persons. But on the whole the Government approaches that as a Government we had to consider other problems which could have gone out of control and we thought it best that we would take a moderate and unemotional stand on the question of the manning levels, etc, or the Work Practices, or the different Shift Systems and to try and negotiate in the best possible manner for the future. Whether that was the right decision or not, that is a matter of judgement but the Government's approach to this question of power and the New Power Station, is that the planning stages of work Practices, of Shifts, must be established now for the future, so that in the future, we do not have the problems that we have had before in the relationships that management have had of staffing levels and with Work Practices. And any money that is being spent and produces good Working Practices, good Systems of Shifts, a fair day's work for a fair day's pay, is money well invested for the future. And we are all the time talking of the future because what we are trying to build up is the future of Gibraltar. Now, with relation to figures and monies, I mean I am not an Economist, and I can never claim to be an Economist, I am not a Technical Expert, but one can play about with figures left, right and centre, if you are an Economist like Mr Bossano, he can play it one way or if you are like Mr Traynor, you can play it the other way, like the instance we had on the ratio and the percentages of the projection of the commercial side of ship repair yards. But, I have to clear one point. The Honourable Member has mentioned extra costs about interest and all the rest. I have to clear one point. And that is that on the question of the hire of the sets, which is £359,000, that is a payment but that is also an asset, because it produced electricity which people paid for.

HON W T SCOTT:

If the Honourable Member will give way, but I did not mention the Skid Generators at all, I was talking about the servicing of a loan, and the interest charges to that loan, not the Skid Generators.

HON MAJOR F J DELLIPIANI:

I am not answering the Honourable Member, I am answering other people, the way the figures have been presented, you know, you have added more, and I am taking some away. As I said the hire of the set, whatever the cost also produced credit. Because we were selling that power produced by the hired sets to the public. The question of the installation costs which came to £89,303 which was a hobby horse of the Honourable Deputy Leader of the Opposition, Mr Restano.

Whether you bought the sets or you hired them, installation would have still been the same. The technical man over there would agree with me, that where you hire the set or you buy the set, the installation costs are still the same. Having made the decision to hire and not to buy, the question of repatriation of the sets whether it costs £38,000 is problematic, because if you had bought it, the reputation might not have come into it, or it might have on the price that you sell. But to the people who might have wanted to buy, we do not know that. So the only true figure, as I see it, which stands in respect of the extra sets that we got was the hire of both of them, of both the Skid Mounted and the Trailer Mounted less what was produced and what we got back through revenue. I mean that is the way I am interpreting this. I agree that the question of the Hawker Siddeley running the Power Station, the present Power Station has been costly, that the cost of running it by our own man power would have added to the cost, and if you add that, if you take away that cost it would come to 50%, or almost 50% of what it is quoted here. So we are not talking of £1,300,000, but we are talking probably of £½ million. The £4,000 that is mentioned of Government employees in the Steering Committee, well that we would have still have had to pay for that because it was working hours, whether you were on Committee or not, they could have been doing other work, granted, but the £4,000 would still have been there. The question of £4,900 for the British Electricity International Company Limited consultancy, that was a recommendation of the Enquiry, whether it is good or not, whether it will prove effective or not, time will tell, but that is £4,900 of the recommendations of the Enquiry. It was also mentioned, the question of electricity supplied from MOD. This electricity was supplied to us at cost. But this electricity, we do not keep it in our pockets or store it, we sold it back, we sold it back to the people of Gibraltar, and they are paying for it. So that, I do not see as a cost. Now we talk of the other one, the Cooper and Lybrand Consultancy. I think it has been mentioned before. It really has nothing to do with the Power Station or the Electricity. It is a study which you say could have been done in Gibraltar by us, I don't know it is in fact a detailed study of tariff structures, both in electricity and water, possible solutions as to how best to find the most equitable way of doing it, and is a question of amortisation or whether it will be us, the present generation who is going to pay for it all, or whether the capital investments which have been involved should be spread over a number of years. It has nothing to do really basically with the question of the Power Station. But what is most important is that one which I think has concerned Members of the Opposition more than anything else, and that is the cost of the Steering Committee, which has been mentioned by the Honourable Member opposite, Mr Gerald Restano. I can under-

stand his feelings of frustration at having to vote for money and he does not know what is going on. I think the Honourable Chief Minister has mentioned it. When there are negotiations of this kind between union and management, it is very difficult for anybody else to start interfering with that process of negotiation. But the Steering Committee is, in spite of the cost, but I agree with the Honourable Member that there has been quite a substantial amount, if it proves to my satisfaction, to the satisfaction of the Government that we will be able to establish the right kind of atmosphere which didn't exist, and still does not exist in the old Power Station, the right kind of atmosphere of Work Practices, of Shift Systems, etc, etc, then it is money well invested for the future, because the problems that we have had in the past will not be there in the future. Thank you, Mr Speaker.

HON A T LODDO:

Mr Speaker, I was disappointed to hear the Honourable Major Dellipiani, make reference to a Financial and Development Secretary who is no longer with us, and to an Economic Adviser who is no longer with us. The accusation that the Financial and Development Secretary at the time, kept telling the Government that there was no money, I don't think is a valid one. All the Financial and Development Secretaries say that there is no money. I have yet to meet one who says "Go on lads, you can spend freely, there is no problem here". As to the reference to the Economic Adviser, who suggested linking up with the Sevillana, if that is not a political decision, I don't know what is. And it is not, Mr Speaker, up to an Economic Adviser to the Government, no matter how brilliant he might be, to dictate to the Government, these political decisions. So I don't think those two gentlemen, need have been brought it to the House.

HON CHIEF MINISTER:

Of course it was not, and it did not happen, but it happened then that it was an ODA Economic Adviser, and therefore his advise with regard to ODA funds, were very relative to the nature of his thinking.

HON A T LODDO:

I thank the Chief Minister for that clarification but I still believe that as the elected Government of Gibraltar, he can turn around and tell the Economic Adviser "No thank you", no linking, you change your way of thinking, because we won't". Right, now having cleared up those two points, I will carry on. Mr Speaker, the motion before this House is a very serious

accusation on the Government. It speaks no less than of condemnation. I have on a number of occasions when dealing with motions admitted that I tend to be over-simplistic, not being an economist or a lawyer, or anybody like that, just an ordinary man in the street, I tend to over-simplify. But I think that by and large when you over-simplify you really get down to the grass roots of the matter of the problem. Mr Speaker, the Government in power today has been in power practically, continuously for 40 years. Some people might say they have been there far too long, but that of course is a matter of opinion. The question I would like to ask here is - in these 40 years has this Government had any power problems. And the answer is no. There has been no power problem in the past 40 years. Except for the last 10 years or so. Since 1976, definitely there has been power problems. There is no denying that. The question next that follows is why? And here we come to the second important word in the motion - foresight or the lack of it. Has there been lack of foresight? The Government claims that there hasn't. Well, if there hasn't been lack of foresight, why the problem? Has it been because the advice that was given to Government has been disregarded or shelved? But certainly we have established that there has been a power problem. If there has been foresight, there has been lack of efficiency. If there has been efficiency, there has been lack of foresight. But we cannot have them both. Mr Speaker, we come to the other important part, unnecessary expense. In trying desperately to provide a semblance of service, Government have been forced into an expenditure of £2½million. The Honourable and Gallant Major Dellipiani tries to cut down, the Minister for Municipal Services attempts to minimise this by saying that some of the money has been recuperated because the Skid Mounted Generators were producing. Mr Speaker, here we talk of millions as if they were nothing. But to the man in the street, the taxpayer, who has to pay up at the end of the day, they do mean a lot. So whether it is £2½million, £2million, £1½million, it does not matter, the fact remains, Mr Speaker, that the people of Gibraltar, at the end of the day have had to foot a Bill which has been an unnecessary one. Four years ago, Mr Speaker, when I stood for election to this House, one of the issues at the time was the power situation. And yet, today, that problem still remains unresolved. True we have a Generating Station which has cost the tax payer, or will eventually cost the tax payer around £8million, but, although we were promised an official opening of that Generating Station in November, it is now December, and unless we have it as a Christmas present, I think we will go into the New Year without an Official Opening. And so we come to the last important bit in the motion. An expression of no confidence in the Minister for Municipal Services. There is very little else we can do. We can hardly give him a pat on the back. This House cannot have any confidence in the Minister for Municipal Services,

who after 4 years certainly, is still as much in the dark, literally and metaphorically as he was 4 years ago. Of course; this lack of confidence reflects on the Chief Minister, not because he is directly responsible for Electricity, because as Captain of the Ship of State, he must bear the final and ultimate responsibility. Mr Speaker, I have no hesitation whatsoever in supporting the motion.

MR SPEAKER:

Well, if there are no other contributors, I will then call on the mover. Yes, Mr Bossano.

HON J BOSSANO:

Mr Speaker, whilst I have not been here to listen to all the contributions that have been made in respect of the motion, I think I can say that I am fairly confident, because they were sufficiently predictable for me to know the points that have been made on both sides of the House. I did however, catch what the Minister for Labour and Social Security had to say about the work of the Steering Committee, and I feel that perhaps just so as to put the situation on record, I ought to say what my own position as a Member of this House representing the GSLP is on this issue, and indeed on all the other consultancies and expertise that we buy so expensively in Gibraltar. Also the position of the people who work in the Generating Station, not because I am here elected specifically to speak for them, but because I happen to be in a position to know what their role is in this situation, and the part that they have played. I think I can speak with a confidence that there is probably not any other Member in the House, who is in that position, to be able to say that he knows precisely what the view of the staff side in the Generating Station is because I happen to be employed precisely to advise them in that role. So, if I just deal with that latter point, to get it out of the way, let me say that the initiative for conducting the Enquiry into the Working of the Generating Station and the Electricity Department came from the Government and that the unions and indeed my own party agreed to provide evidence to that Enquiry, in fact the unions have not asked for an Enquiry into the departmental efficiency as such, it was an initiative of the Government, the unions agreed to go along and put their points of views and their grievances and their shortcomings as they saw it from the shop floor, and when the Enquiry recommended setting up a Steering Committee and the Steering Committee eventually, as it were dovetailing into a Departmental Works Council, again, the unions agreed to take part in it, but made it clear from the beginning that as far as they were concerned, there was already in existence adequate negotiating

machinery through the office of the Industrial Relations Department of the Government to deal with that situation. The unions would not boycott the Steering Committee because they did not want to be accused either of having anything to hide, or of putting a spanner in the works. I do not want to go into any of the details of what has or has not been discussed in that Committee, I don't think I have the right to disclose to the House what effectively is privileged information, as far as I am concerned, and which is not my responsibility to report to this House. Although I can say without fear of contradiction that throughout the working of the Steering Committee, in the one year that it has been in existence, the changes that have been agreed have all been initiated by the Government side, that is by the management side, it isn't a question, I think this is the only point I want to make because I want that to be clearly understood. I think it is only fair to the workforce that it should be clearly understood. There is no question of the workforce having come along and having said to the employer "If you want us to work in Waterport, those are our terms" and I have not heard anybody held to ransom. What has happened is that the Government has said "We would like you to work in Waterport different hours, different rosters, a different organisational set up from the one that you have got today. And since the initiative for a change came from the employer, the period of time that has taken place has been to the extent that the change was not acceptable as it was originally proposed. How far was the employer prepared to move. One could say one was the position of the workforce who says "we are prepared to take over Waterport Station on exactly the same terms and conditions as we are employed at the moment". The position of the employer saying we want a new system introduced in the new station, and I think the year that has gone by has been a process of trying to find somewhere in between which was acceptable to both sides. I think that the important thing to understand is that if the Government had come along and said "right there is no change, the workforce will simply be transferred to the New Station, there was no claim and no argument from the workforce that something extra had to be paid for working at the New Station. Whether in fact, the changes that have been required, which in the main have been accepted by the workforce are either necessary and desirable is a matter of judgement. Certainly, the workforce didn't think they were desirable or necessary and that is why they resisted.

HON CHIEF MINISTER:

During the Hon Member's absence this morning, I did mention that it was the result of wanting to have new Work Practices that the Steering Committee was set up.

HON J BOSSANO:

Let me just say as well, Mr Speaker, that my own view, and I think perhaps the Government, my own view in the Steering Committee, certainly recently, when, I would say practically 98% of the matters had been agreed is that it is impossible in any committee to reach a point when 100% agreement in fact, has been reached, if it were so, the whole idea of the Steering Committee being succeeded by a Works Council would be unnecessary, because there would be nothing for the Works Council to do, so that the concept of phasing in one into the other of necessity must be that there are some things which are still under discussion whether discussion will continue in the Works Council and unless that is done the Steering Committee might just well never finish its work, because there will always be some point or other that somebody has thought about since the last meeting and then the whole thing is re-opened again. So I think, in any committee, at any one time, when you are dealing with Industrial Relations, I don't know what it is like in other fields, but when you are dealing with Industrial Relations, there are things to discuss otherwise there would be no need for machinery to air differences between management and workers. If it were possible to produce a master plan which would take care of every eventuality in the future, then the machinery would not be required. So, I think that in fact, it is again a matter of judgement at what point the Steering Committee can be said to have completed its work and the Works Council be ready to take over. In my view, it cannot because it would mean there would be no need for a Works Council and that there was nothing left to discuss. Now, going back to the manner in which the Electricity Undertaking is managed. And I am not sure in fact, to what extent the excess degree of proper management, efficiency and foresight, I am not sure to what extent this is a criticism of the management in the Station. I assume, since the House is seeking responsibility, political responsibility, then in fact, although words like management and efficiency and so on, are being used here, in fact, they are intended to be a political criticism on the politicians and not a criticism of whether the managers in the Generating Station are good, bad or indifferent. I don't think anybody in this House is qualified, quite frankly, to pass judgement on this. But, to me, it is clear that there are a number of factors, historical factors in the past, which certainly have been factors working against the efficient running of the Electricity Generating Undertaking. It seems to me, Mr Speaker, that one can point to 1969 as one obvious turning point in the fortunes of this Electricity Undertaking, and if I am not mistaken, the amalgamation with the Government which was intended to produce huge savings by introducing more efficient and centralised control of the Municipal Services, has proved to be the very opposite of what it was intended to do. I am not of course

familiar with what went on in those years, but I am in fact familiar to some extent by hearsay more than anything else, about the deficit that the City Council, passed over in its accounts to the Government. I think it was £600,000. Now, of course £600,000 is absolute peanuts, compared to how the Government itself has run the Municipal Undertaking, so whatever criticism one might have made about how the City Council run them, by comparison, one has only got to remember that when proper accounts, so called proper accounts, were finally produced in 1976 there was a paper deficit, not of £600,000, but of £2.2million. This had to be written off the Municipal Services and the House will remember, those Members of the House that have been here since 1972 will remember how in every budget, starting from 1973 when I first of all accepted the need to raise Electricity Charges because I was told there was a statutory obligation to do so and then I had to do 180 degree turn and vote against it because the party told me that I was not supposed to say things like that if I was a politician. Well, it is the only regrettable instance that I have had to obey party discipline against my better judgement, Mr Speaker, because I felt that I could not very well vote against an increase in rates if the explanation given at the time was that we were required by law to balance the books. I thought how could the House of Assembly vote for a Government to act illegally, to vote for a law to be changed, how can it vote for a Government to act illegally, that was my understanding of the situation. Anyway, I did what I was told then, and I watched my step after that. But, I nevertheless questioned the validity of the way of producing accounts year after year, where we were given an estimate of the expected outcome but we were not given an account of the historic outcome, so that every year a new set of accounts was produced starting with zero. There was no carry forward balance of a deficit or a surplus, and it seemed to me that since every year, it was on what the Financial Secretary used to call Notional Accounts, that the rate was fixed, and the Notional Accounts assumed that the undertaking had broken even the previous financial year because it did not show any surplus or deficit, we were being asked to vote on a basis which one couldn't question. One had to accept the premise that the Notional Account was an accurate assessment. In fact, when the Notional Accounts were scrapped in 1976 and replaced by a set of accounts showing the historic costs, we found that the undertakings, that is the Municipal Undertakings, Water, Electricity and Telephone had accumulated a £2.2million paper loss. In 1977, the Government announced that now that it had proper accounts, it was now embarking on a policy of making the services self financing and since they announced it, the deficit has got bigger and bigger. Well I not sure how one should take these things. I remember that I put up a very heated argument against the

announcement of that new policy of the services being self financing and I need not have worried, Mr Speaker because they have never been self financing. In fact, the deficit since they were announced to be self financing have been much bigger than when they were not supposed to be self financing. I also think, Mr Speaker, that there are two factors in the actual running of the Generating Station. One cannot forget, and I think again there, there is a clear political responsibility of the Government and I am not saying that the Government did not do what it thought was the right thing at the time. I think that on more than one occasion since they have argued that with the benefit of hindsight they might have done something different but that the advice that they had at the time impelled them in the direction which they went. But, it does certainly, those two periods which were the Pay Reviews of 1974/78 in the dispute over parity, and the 1972 Pay Review had a very important bearing on the Generating Station, on the management of the Generating Station, on the running of the Generating Station, and on Industrial Relations in the Generating Station. With regards to the equipment, there was the 1972 General Strike provoked by an offer of 40p. I mean I do not know whether that was what it was, but I do know that it was an offer of 40p which was subsequently defended as the most that Gibraltar could afford and which led to a General Strike, which in turn led to a payment of £1.50. As well as a huge surplus, in spite of the fact that £2 million, was put into the improvement and Development Fund retrospectively to 1971/72 and in 1973 we finished with a surplus in the Improvement and Development Fund of £2 million which was a half a million that was already there, a quarter of a million was already there and a half a million that had been put in. I am just saying that, Mr Speaker, not because it is directly relevant to the motion, but because I don't think it serves in 1976. I think in 1972, that period, the military intervention in the Generating Station created a major lack of trust and comradeship between the line management and the people on the shop floor which has never entirely been recovered. The fact that initially it was the line management who kept the Generating Station going, whilst the workers were out on strike, and did their work for them and the subsequent military intervention had an enormous damaging effect on industrial relations in that department from which the department has not entirely recovered. It recovered a great deal of the debt I think in the 1974/78 period, precisely because in that period when the issue was one of parity with UK everybody was on the same side. Including management yes, and a lot of the first line managers and PTO's who in 1972 had appeared to the workers to be against them in 1975/76 were fighting for parity and were prepared to take industrial action themselves.

MR SPEAKER:

Mr Bossano, please are you for or against the motion.

HON J BOSSANO:

I have not said yet, Mr Speaker.

MR SPEAKER:

Yes I know.

HON J BOSSANO:

So I think that second period, and I don't think in fact the date of 76 in the motion, is related to the problems that arose at that period. But I think in that period one of the practical consequences of a very long period of work to rule and go slow and also that there was an enormous backlog of maintenance for which there had to be a catching-up exercise in 78 and post 1978 and which, I think, again was something that hindered the efficient running of the system. I am saying these things because I think all these things are in fact real factors, which without accepting for one moment that it was the responsibility of the workforce the consequence of a period of industrial dispute is in fact that at the end of the day there is a backlog of work and that is inevitable. Now I am in fact supporting the motion Mr Speaker, but perhaps my reasons for supporting the motion are not the same as other people have given. I mean you know I think that the period of bad management in the sense that I have explained and I am not sure in what sense it is intended to be read here, goes back a very long time and quite frankly I am sceptical that the work of the Steering Committee is going to result in any dramatic transformation. I have taken part in it, I think I have done my best to try and get an agreement there professionally that is acceptable to both sides, but my knowledge of the situation makes me think, you know, that some of the proposals that have been put forward are in my view not desirable, and will prove to be unworkable. I think in fact, that the responsibility of necessity must be carried politically. Just like of necessity in other issues, for example, I mean, I think that when we are talking about a Government Department or not, if it is not a private concern where the consumer can vote with his feet, if it is, and it has to be something like Generating Electricity which has to be a monopoly situation, has to be publicly owned, then in fact, there must be somebody to answer politically if it goes wrong and Government will have to answer politically. For example, if the ship repair yard were ever to go into existence. So I think you know, whether the Government say that they are

doing what they think is best or what their advisers tell them or not, even if it is bad advice that they get, they still have to answer for it in this House, and I will support the motion.

MR SPEAKER:

I will now call on the mover to reply.

HON G T RESTANO:

Mr Speaker, I am grateful to the Honourable Mr Bossano, for his support of the motion, and he did have a few queries during his intervention. It was a pity of course that he was not here this morning when he would have heard what this side of the House had to say. What he has just said is that 1972. I think, Mr Speaker, that if Mr Canepa wants to speak he should ask me to give way, and I am not giving way, he had the opportunity of intervening in this debate, he has not done so, so he had better shut up now. Mr Bossano was saying, Mr Speaker, that his reasons for supporting the motion was, or rather, one reason that he slightly disagrees with the motion was that in fact, he did not think it should be from 76, but that it goes back to 1972. I would like to explain to Mr Bossano the reason why 1976 is in the motion and not 1972 when there was a strike as he has correctly said is that in 1976 the Government received recommendations from consultants to carry out certain works and "they" did not accept these recommendations, and as far as I am concerned, from 1976, the fact that new generating plant was not introduced by the Government and the working conditions in King's Bastion Generating Station, which we all know was very, very poor, was the main reason why there have been all these problems in Gibraltar in the Electricity Undertaking. Now, this morning Mr Speaker, the essence of the reply given by the Minister for Municipal Services and the Chief Minister were not in any way concrete to what the motion had said. The main essence was saying that the Opposition had brought in this motion for the purposes of electioneering. Those were the two main points made by the Minister and the Chief Minister. In introducing the motion this morning, Mr Speaker, I said that this was not the first, nor the second but the third motion of the DPBG on the Electricity Undertaking. And to say that at the last moment we are introducing a motion for the purpose of electioneering is clearly trying to mislead people. When one considers that the motions, which this side of the House have put down, one asking for "the reasons and causes for the failure of the department to ensure continuous supply of power to the consumers of electricity over the years, over the last four years", this was the motion of 1980, asking in the same

motion "to examine the recommendations of the Preece, Cardew and Rider Report, and to consider whether the recommendations contained in that Report was adequately and promptly dealt with by the responsible Minister and also to enquire into the short and long term plan of the responsible Minister to provide for a continuous supply of electricity to the public of Gibraltar and to report whether such plans are adequate to service the needs of the community now and in the future". That is in 1980, we were not accused then of electioneering, Mr Speaker. We were not accused then, we were merely accused then of trying to add fuel to fire, and then again, in October of 82, the second motion that was then produced was a motion of no confidence, again on the lack of planning and foresight, the lack of proper provisions for staffing at Waterport Station, the manner in which it has in this House misled the Opposition and the public as to the true state of industrial relations in the generating station, the lack until the report of the Committee of Enquiry was submitted, of adequate consultative machinery, we were not accused of electioneering then. It is only now. Our concern has been all along, Mr Speaker. I think that deals adequately with the fallacy and the myths produced by both the Speakers on the Government side this morning, that all that this side of the House was doing was trying to use this for electioneering purposes. We have been concerned all along with the problems of electricity and the lack of continuous supply. Now the Honourable Dr Valarino said that it did not make any sense to go back to 1976 and that all the Opposition was worried about, was I think he said the Preece, Cardew and Rider Report, stuck in our throats. Well, Mr Speaker, that may be the level of importance that the Minister gives the Preece, Cardew and Rider Report. He makes, he tries to make it a debating point, and he fails entirely. That Report, had it been adhered to, and the recommendation of that Report, had they been adhered to by the Government in 1976, would have ensured that by 1978, two years before the last election, we would have had a new Generating Station in Gibraltar, and all the problems that we have had, and all the cost of the incompetence, which I will deal with in a moment would not have arisen. Ah, yes, on talking about the Trailer Mounted Engines, the Minister said that the reason why that one had been brought in was that No.8 Engine, in the Generating Station had packed up. But I put it to the House that by the time that that No.8 Engine packed up, it should have been disposed of, at least as far back as 1976. And that is in the Preece, Cardew and Rider Report. He mentioned that I had mentioned a lot of red herrings but he did not give a single example. He did not give a single example, I think it is very easy for a Minister to get up and say "Oh, the Opposition is coming out with red herrings all the time" and not mention one single one of them in the same way that he said that I had been

corrected on inaccuracies on two occasions during this House, he said that Mr Perez had corrected me in an inaccuracy. Well, again, he did not give any examples of any times that I have been corrected. So I disregard those statements entirely. Then, he accused me of not having gone to visit the Waterport Power Station. Now I will give the Minister my reasons for not having gone to the Waterport Power Station, and there are two, basically. The first is that I do not intend to visit the Waterport Power Station until such time as it is being run by the Gibraltar Government. I don't see that there is an awful lot that I can gain from going to visit a Station which is being run by consultants and it is costing us £1.3million on account of Government's failure to operate that Station. And the second reason is, and he in passing said that I had only been once to King's Bastion. And I must say, I have not said this before in this House, but I will say it today. There are limitations imposed on Members of the Opposition when they go and visit certain Government Departments. One of the limitations where the Generating Station is concerned, is that if I have to go there the Minister has to accompany me. Now, this did not happen for example, when I visited the Medical Department, where the Minister asked me whether he wanted me to be accompanied by him or whether I wanted to go on my own. And I said to him, I thanked him for his offer, and I said that I would prefer to go on my own. Where the Generating Station is concerned, the Minister flatly refused that I should go on my own and insisted that he should accompany me. Now, I have been approached, or I was approached shortly afterwards, after having gone round the Generating Station with the Minister, by members of the Station, saying "Look, we would have liked to have spoken to you about this and about that, but we were certainly not going to speak to you about this and that in front of the Minister". They did come and tell me afterwards, incidentally, but I think it is a sham for a Member of the Opposition to go to such places like the Generating Station and not being able to have the men approach directly, without the fear that somebody might hear what is being said. I must say, Mr Speaker, that I was surprised to hear the Minister saying that the Government ran GBC. I don't know whether the Chief Minister can confirm this but I think he will have the opportunity at a later stage, but I think it is important, because he did say that.

HON CHIEF MINISTER:

Of course not by a simple slip of the tongue on the way that things were run, I have tried over and over again in reply to questions opposite to say we have nothing to do with GBC that it is a Statutory Body, that it is independent and that we have nothing to do with running it. Now the Honourable Member knows about it.

HON G T RESTANO:

Well I am grateful for that Mr Speaker, I hope the Chief Minister will tell the Minister for Municipal Services that he should be a bit more careful, that he should be a bit more careful when he comes to this House and starts speaking.

That is a pretty important statement, I am glad that it has been qualified and rejected by the Chief Minister, and quite rightly so. But I think he should tell his Minister that he should be far more careful when he gets up and makes statements in this House. Particularly when they are not written for him. Now he says that in 1980 the Government had done the right and responsible thing, they had taken the right decision on the Generating Station. And I would agree, it was the correct decision to build the Generating Station. The only trouble is that it was 4 years too late, that is the trouble. Now the Chief Minister I am afraid did not have all that much to say on this occasion, and he did I am afraid rather tend to repeat what had been said by the Minister for Municipal Services. He just made, I think 2 or 3 points that had not been raised before by the Minister. One was when he was talking about the Steering Committee, and he said that Work Practices that had developed during the previous period, those were bad Works Practices, and that the Government had to ensure that these Work Practices, would not be perpetuated. Well, Mr Speaker, to me, the way I interpret that particular statement is that the Government considers that it had allowed the situation in the Generating Station to revolve to such an extent where proper management and efficiency was not occurring. And that is in fact the vindication of part of the motion. Now, he also said he questioned the figures that I had circulated. He said that it was unfair to say that the Skid Mounted Generators had cost £468,000 on the one hand and £164,400 on the other hand because the Skid Mounted Generators, as with the Ministry of Defence electricity supply which cost £152,000, had been recouped by money which had been charged to the consumer. Now, as far as the Skid Mounted Generators is concerned Mr Speaker, that is a misleading statement. It was a totally misleading statement made once again.

HON CHIEF MINISTER:

No, because I think it shortens, I hope it shortens the area of debate. I did not put them together. I said one of them had produced and the other was exactly what we had got.

HON G T RESTANO:

Right, well I took him to mean, if it wasn't, it certainly, the Honourable Major Dellipiani made that statement as well, or made that particular statement. But it is certainly mis-

leading to think or to say that the money for the hire of those generators had been recouped, because they were not used for all the time, they were used for a few hours. In fact, it was a total of 29 months I think they were used, for about 3 months. Now, as far as the MOD supply is concerned, again, I think that point was explained in his intervention by the Honourable and Learned Leader of the Opposition. There was no reflection in the estimate of a decrease in the overheads of the department. No, we were paying for the same overheads plus the amount paid to the Ministry of Defence and only that piece was being passed on to the consumer. So it is part of the cost of incompetence of the Government. In his intervention, Mr Dellipiani, I think tried to make a very honest appraisal as he saw it, although he did bring to light one thing where he says that the Government was delayed whilst he wanted to have more generating units in Gibraltar, the Government was delayed both by the then Financial and Development Secretary and the Economic Adviser who had said that Gibraltar should be linked through La Seviliana. Mr Speaker, this is entirely the view that I take and I have taken in presenting this motion to the House. Who was governing Gibraltar? Was it the Chief Minister and his Ministers or the Financial and Development Secretary with the Economic Adviser? It seems to us on this side of the House very frequently that the people who are running Gibraltar are not in fact the Chief Minister and his Ministers. Well in this particular instance, Mr Speaker, it is clear by what Mr Dellipiani says. "He said that the delays were caused by the then Financial and Development Secretary not the present, that the then Financial Secretary, that he was the one who was dictating to the Chief Minister". Well, if that is the way the Chief Minister is running his Government, it is no surprise that we should have the difficulties that we do encounter. Lastly, Mr Speaker, the Honourable Major Dellipiani, said that what seems to frustrate me most was the payment of £110,000 for the Chairman of the Steering Committee. Well that is not really what annoys me most. What annoys me most is £1.3million, which has been paid by the Government for Hawker Siddeley to run a station because the Government was unable to do so. And for the Chief Minister to say "Oh well, £1.3million, that is not a correct figure, he said. That is not a correct figure. Because if we had taken over the station then it would have cost us half". But that of course, is not reflected in the estimates, Mr Speaker. If the Government had thought as they obviously did, and I said it this morning and I am not going to repeat it, that the Waterport Power Station would be taken over end of 1982, and then there was a bit of slippage, but by the time 1983/84 estimates were presented to this House, if the Government thought that they would be in a position during this financial year to run this station, and that it would cost

about £650,000 I would imagine that that would have been included in the estimates. But it has not been included in the estimates, because from the approved figure for 1982/83 of £4.07million, the estimates, from the revised estimates of 82/83 of £4.27million, the revised estimates for 1983/84 is £3.87 million. So there is no reflection in the estimates, that Government has any intention either to take over the Waterport Power Station, or if they did so, that it would cost £660,000 more for them to run the Station. Mr Speaker, Sir, I think I have covered all the points except perhaps, oh, yes, except perhaps for the question of the Cooper and Lybrand Consultancy which some Members opposite have objected to so much. Well Coopers and Lybrands consultancy, £25,200 is being paid to do work which I am sure we have enough competent people in Gibraltar to do, and we do not need to spend that amount of money on work which can be done with our current and present resources. Mr Speaker, I beg to move.

Mr Speaker then put the question and ruled that the motion was a motion of no confidence in the Government and consequently the ex-officio Members of the House were precluded from voting in accordance with the proviso to Section 44(1) of the Gibraltar Constitution Order, 1969.

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

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

The following Hon Members voted against:

The Hon I Abecasis
 The Hon A J Canepa
 The Hon 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 motion was accordingly defeated.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause. (1) the Auditor's Registration Bill, 1982; (2) the Supreme Court (Amendment) Bill, 1983, (less clauses 2 and

6, which have already been dealt with); (3) the Law Revision Miscellaneous Amendments (No.2) Bill 1983; (4) the Criminal Offences (Amendment) Bill 1983; (5) the Immigration Control (Amendment) (No.2) Bill, 1983 and (6) the Landlord and Tenant Bill 1983.

THE AUDITOR'S REGISTRATION BILL 1983

MR SPEAKER:

I will remind the House that we are still on Clause 4 of this Bill, we did the first three clauses, so we are at clause 4. I take it that the Honourable and Learned Attorney General did move the amendment, which was the omission of sub-clause 2 and the substitution therefore for a clause of which notice has been given and I read at the time.

HON P J ISOLA:

Mr Speaker, what we were discussing was an amendment that I proposed to the Honourable and Learned Attorney General.

MR SPEAKER:

That he has adequate knowledge and experience of accountancy and audit.

HON ATTORNEY-GENERAL:

That is right.

MR SPEAKER:

In other words, you were, if I remember well, suggesting that that clause which was intended to be substituted should be deleted, is that right?

HON P J ISOLA:

Sub paragraph C.

MR SPEAKER:

Sub paragraph C, that is completely and absolutely right and clear in my mind. So I will remind the House where we are, an amendment to clause 4(3) was moved by the Honourable the Attorney General, which consisted of a new sub-clause which had several sub-sub-clauses, and now there is an amendment before the House, that sub sub-clause C, should be deleted and substituted for a sub-clause to read "that he

has adequate knowledge and experience of accountancy and audit".

HON ATTORNEY-GENERAL:

I may be repeating myself, but in view of the adjournment of the Bill in Committee, it may be very helpful if I recap my position on the amendment to the amendment.

MR SPEAKER:

I beg your pardon?

HON ATTORNEY-GENERAL:

It may be helpful perhaps even though I run the risk possibly of repeating myself.

MR SPEAKER:

Well we are in Committee.

HON ATTORNEY-GENERAL:

Mr Chairman, on the amendment to the amendment, the position is this, that talking about qualifications for auditors, not for accountants but for auditors, as the Honourable and Learned Leader of the Opposition has himself pointed out, areas for the proposal in the first place, was an order to secure the appointment of auditors for company and tax work and really I can see no reason at all why the reference to an adequate knowledge of company and tax law should not form part of the qualification for registration, and I will stress again, that nothing in the original Bill, or in the amendment which has been proposed from this side of the House stipulates that you must have a knowledge as gained by an examination. It is not that precise requirement. The original amendment simply says that you must have a knowledge, an adequate knowledge of the law relating to companies and taxation, no more and no less. And for that reason Mr Chairman, I would not be in favour of the amendment to the amendment.

HON P J ISOLA:

Mr Chairman, perhaps I should recap what I said on this. That amendment has come as a result of representations to the Financial and Development Secretary or to the Honourable and Learned Attorney General. The reason why we oppose that particular amendment is because it changes the intent of the Bill. As I understand the position, this Bill was introduced to try and regularise the position of people who audit accounts,

of people resident in Gibraltar who audit accounts and try and give those audited accounts recognition by the fact of authority to act as auditors in Gibraltar, and more importantly, Mr Chairman, to exclude a whole lot of people who are today Gibraltarians resident in Gibraltar, who are today making a little money from part-time work. Now, as soon as all those people are excluded, the people who are going to benefit are the chartered accountants. And I would like to remind the House that chartered accountants of Gibraltarian origin, in Gibraltar, are very, very few. We are mainly invaded by, invaded is perhaps the wrong word to use, Mr Chairman, but Members should be conscious of the fact that those are the people practising in Gibraltar, chartered accountants, who do not originate from Gibraltar, and there is plenty of work from what I think I have seen for everybody, because the firms who are established are increasing the number of partners working in Gibraltar. Now the net effect of this Bill will be to exclude a number of people, and it may be quite a substantial number, who earned a living from auditing accounts and filing them for income tax purposes, etc. Now what the Bill was intended to do was, rather what has happened with dentists. Those who do this regularly as their livelihood, and not as a sort of part-time occupation or whatever, will be recognised as auditors. Now, that was the intent of the Bill as explained to this House by the Honourable and Learned Attorney General, who then comes along and puts in an amendment to change it. That is the objection that we have. And our objection becomes greater, when the amendment comes as a result of talking to chartered accountants. So this is a reality, Mr Chairman. Now, what we say is that if the amendment as proposed by the Attorney General is passed, then the board that recognises accountants and auditors will set a higher standard than this House intended should be set. We are not going to ask them whether they have passed exams or anything else, but they are going to set a higher standard, and they are going to be given the excuse to say no, to an accountant and deprive him of his livelihood. That is what is going to happen, Mr Chairman. And I don't know whether there is an appeal under this against a decision of the board to refuse to register anybody.

HON ATTORNEY-GENERAL:

Will the Honourable Member give way.

HON P J ISOLA:

Yes I will give way, I have been giving way on this for a long time.

HON ATTORNEY-GENERAL:

I don't think he has really, Mr Chairman, I am trying to help. There is a right of appeal. I don't feel anything has been said about the effect of this amendment, but all that is doing is making more particular what the original intention was, but if they feel so strongly about it, we will not pursue it.

MR SPEAKER:

Do I understand that you will not pursue the objection to the amendment to the amendment.

HON CHIEF MINISTER:

No, we are going to withdraw the whole amendment circulated, and leave it as it is in the Bill.

MR SPEAKER:

Well let us be clear on what we have to do now. The Honourable and Learned the Attorney General has to obtain the leave of the House to withdraw his amendment to the clause.

HON ATTORNEY-GENERAL:

Perhaps, Mr Chairman, may I merely give information on what I am going to do, but I will at the appropriate stage seek...

MR SPEAKER:

It is now the appropriate stage.

HON ATTORNEY-GENERAL:

In that case, Mr Chairman, may I seek leave to withdraw.

MR SPEAKER:

No. In the full knowledge that the Learned Attorney General is intending to proceed in the manner he has explained, you might seek the leave of the House to withdraw your amendment to the amendment.

HON P J ISOLA:

Mr Chairman, I would like leave to withdraw my amendment.

Mk SPEAKER:

Is leave to withdraw given by this House? Yes. Now you can ask for leave.

HON ATTORNEY-GENERAL:

Mr Chairman, may I seek leave from the House to withdraw my amendment?

This was agreed to and clause 4 stood part of the Bill.

Clauses 5 to 12 were agreed to and stood part of the Bill.

HON P J ISOLA:

Mr Chairman, I beg to move the amendment standing in my name that the Bill be amended by the addition of a new section to be numbered 13, and to read as follows. "Section 13(1) of the Companies Taxation and Concessions Ordinance, 1983 is amended by the addition of the following words at the end thereof or is a person or a firm whose partners are registered under the Auditor's Registration Ordinance". Mr Chairman, the main effect of this Bill as coming to this House is to enable auditors, persons who are registered as auditors for the purposes of this Ordinance, to be able to audit the accounts of a company registered under the Companies Ordinance for the purposes of income tax, for the purposes of the revenue of Gibraltar. They are in effect, what we are doing in this Ordinance, is what was done in England shortly after I think the Companies Act of 1929, to allow people to exercise their profession or exercise the profession which they have learnt through experience, rather than by examination.

Now under our law, therefore, it is intended that for the purposes of Gibraltar, people who are registered as auditors can act, and have the full powers of auditors. Now, if we do not allow them to act as auditors for the purposes of the Companies Taxation and Concessions Ordinance of 1983 we are reducing their chances in Gibraltar, and I stress in Gibraltar. It is rather like a dentist, Mr Chairman, who was allowed to practice dentistry as a result of experience and who was legalised under our Medical and Practitioners Legislation some years ago. If they had been told, right you can take teeth out of Gibraltarians, but you can't take teeth out of visitors to Gibraltar. You know, you are either an auditor, or you are not. That is the reality. Under the Companies Taxations and Concessions Ordinance Section 13 states, "a person or firm shall not be qualified for appointment as auditors of exempt companies unless he or it is approved by the Governor for the purposes of this section and is a member or is a firm whose partners

are members of a body of accountants, established in the United Kingdom and for the time being recognised for the purposes of the Companies Act by the Department of Trade". That is the test under the Ordinance for being an auditor of an exempt company, that is the test. You have got to have approval by the Governor, and secondly they must be chartered accountants, or accountants recognised under the Companies Act by the Department of Trade. All I am saying in this amendment is that people who are recognised by us as auditors should also be auditors. Let me explain something in this connection. Let me explain the practice as I find it in Gibraltar. The practice is that you can have a person who is a chartered accountant, who is resident in Jersey, Guernsey, Isle of Man, United Kingdom, America, if he is a British chartered accountant, if he is qualified as an auditor of any exempt company in Gibraltar. All you do is that you write a little letter to the Governor or the Financial and Development Secretary, somebody from the Department looks up a book on chartered accountants and if his name is there it is approved. We know nothing about the man at all, but he is approved. He has not read the Companies Taxation and Concessions Ordinance in all probability but he is approved. That is the position that is the practice and I know that from experience. I know auditors of Exempt Companies that I have applied for, who are chartered accountants in Jersey, in the Isle of Man, and who have not got the foggiest idea what their duties are under the Companies Taxation and Concessions Ordinance. But they are approved and they become the auditors. And that is a fact. The magical word is that you must be a chartered accountant.

MR SPEAKER:

May I because we are in Committee ask a relevant question, is it not in the letter of acceptance of an appointment of a chartered accountant for the purpose of the Companies Taxation and Concessions Ordinance, that they have to give an undertaking that they will comply with the requirements of the Companies Taxation and Concessions Ordinance.

HON P J ISOLA:

No, I beg your pardon, well my experience is, my experience Mr Chairman is what the Financial and Development Secretary wants is a letter saying that they agree to be appointed auditors of that company.

MR SPEAKER:

And comply with the Companies Taxation and Concessions Ordinance.

HON P J ISOLA:

Well, that I don't know but if you say so, that is it, but I have never been asked for a copy of the Companies Taxation Ordinance from any auditor, that I can tell you Mr Chairman. And let me say another thing, I have never seen the certificate that they give to the Financial and Development Secretary either. I have never seen the certificate that they give to the Financial and Development Secretary, because what he has got to do, what his duties are, under the Ordinance are very restricted. The auditor has to, before the 30th June every year, submit to the Commissioner of Income Tax, a list of the full names of any resident of Gibraltar, who has during the period of a year ending on the 31st day of March, made any loan to the company, and on the full name of any person other than a resident who has during the period ending on the 31st made any loan to the company secured upon any property situated in Gibraltar. So that if they, an auditor, if a company hasn't made a loan, or hasn't taken a loan from a Gibraltar resident, or hasn't invested money in property in Gibraltar, he does not have to give a certificate at all. Now, Mr Chairman, it is also a well known fact that exempt companies don't have audited accounts. That is also a well known fact because the Gibraltar Government is not interested in their accounts. The Income Tax Commissioner is not interested in their account, as long as they pay their £225 a year, that is all the Gibraltar Government is interested in. And if there has been no loan to a Gibraltar resident or loan taken from a Gibraltar resident, and there has been no investment in immovable property or in any business in Gibraltar by that company, there is no need for the auditor to write anything. Now I ask this, Mr Chairman, I ask the House this. Who is more likely to comply with Section 13 of the Companies Taxation and Concessions Ordinance. Clearly a local auditor. Because an auditor who is in the Isle of Man and who is not actually auditing the accounts, he is just the auditor for the purposes of the Companies Taxation and Concessions Ordinance, that person will probably be appointed never hear any more about that company, unless it blows up in a newspaper. This is a reality. He does not sign, but there is no, there is nothing, there is no duty to submit anything. No, Mr Chairman, if the Honourable and Learned Chief Minister will look at Section 13 of the Companies Taxation and Concessions Ordinance he will see it. He has got to send a letter to the Commissioner of Income Tax only if certain things have happened. If they have happened he has no letter to send. And it is a well known fact that a great number of exempt companies, in the majority, are not audited. The accounts are just not audited. So the only reason I can think for a local auditor not being allowed to take on this particular duty which is not very

onerous, can be carried out much better by an auditor resident in Gibraltar than an auditor resident in Guernsey, or Jersey, or the Isle of Man, or the United Kingdom quite outside the jurisdiction of the Commissioner of Income Tax, the Governor and everybody else I can see no reason why such an auditor should not be allowed, why a local person who can audit accounts for the Commissioner of Income Tax, in respect of raising revenues for Gibraltar, cannot be entrusted because that is the real, that is the real issue, cannot be trusted to write a letter to the Commissioner of Income Tax telling him whether any resident of Gibraltar has invested in an Exempt Company, or made any loan to the company, or whether that company has invested in immovable property in Gibraltar. That is all they have to do under the Companies Taxation and Concessions Ordinance. Of course, I would imagine that here again we have the question of competition, the question of protected interests and so forth. Obviously it is not good to a certain extent for chartered accountants, or people who are recognised for the purpose of the Companies Act by the Department of Trade to have competition from auditors resident in Gibraltar. They probably don't like it, and they can probably find good reasons for opposing it. But I must remind the House that under this Ordinance we are qualifying certain people to act as auditors under the Auditors Registration Bill and we should allow them to act in Gibraltar at least fully as auditors and to be able to give the certificate. Of course it is still open to the Governor not to approve their appointment as auditors, it is open to the Governor and he may well do so, and to remove the approval, if they find that a particular auditor has not been doing his job. And the Governor can do it far more easily I can assure Honourable Members in this House that we have auditors resident in Gibraltar, than auditors that come from the Isle of Man or Guernsey or Jersey, our competitors, or the United Kingdom, Mr Chairman I commend the amendment to the House.

Mr Speaker then put the question in the terms of the Hon P J Isola's amendment.

HON CHIEF MINISTER:

Well my understanding, Mr Chairman, of this Ordinance was to regularise, and in fact, the argument which was being used earlier by the Leader of the Opposition is really up to a point more relevant now than what was being done in the Ordinance was to regularise the people who were here. Now that it is proposed to regularise those registered under the Auditors, now you are giving them additional powers. Now I am afraid of the question of the international aspects of the Finance Centre, and the fact that whether an auditor allows

his name to be given, and this is what I understand now happens he is subject, if he is a Chartered Accountant, he is subject to the discipline of his body, and he is answerable to them if he does something wrong. Here, and I am not suggesting that things should be done wrong, but here, there is only the sort of disciplinary procedure of being removed by Government and by not belonging to a body to which you have to answer and from which you can be struck off and that is I think the extent of the present Ordinance, that is why I did not want to pursue the other amendment, because it had been agreed with the other Chartered Accountants. They are after all very much interested, and that had been agreed and that was good enough. But to add to it another dimension now seems to me rather dangerous and as far as we are concerned we are voting against it.

HON ATTORNEY-GENERAL:

It may help also, Mr Chairman if I draw attention to a certain point. If this Bill had not been introduced into the House, if this Bill had never come forward, the position would be that in law only some people, not all people who practice auditing but only some of those people would be permitted by law to function as auditors under the Companies Concessions and Taxation Ordinance. So in that sense if the present Bill does not incorporate the amendment now being proposed, it will not be changing the position. Now the other point that the Honourable and Learned Chief Minister has already emphasised is that we are concerned here with off-shore business. That is a matter of perhaps special sensitivity, and the information I have is that if anything the tendency elsewhere is to make more stringent the requirement for the role of an auditor in relation to such business, that is a factor in the whole matter. The other factor is this that the Honourable and Learned Leader of the Opposition himself mentioned the original intent of the proposals put forward for this legislation. I think that they are actually a little wider than simply for taxation purposes, but nevertheless, they started off as a limited scheme, a limited concept, and I think that at this stage to widen that concept in Committee would be going too quickly. I think the proposal which now they put forward is in itself a substantive proposal. There will in fact be a Registration Board, under this Bill, there will be a Registration Board under this Bill, that will have powers of removing auditors who are registered, who are even exempted, and there will be machinery to that end. But I think at this stage, it would be too quick and introduce an entirely new additional concept into the original proposal to say that not only can we make provision for the registration of persons under the new Bill, but they may also perform functions under

the Companies Taxation and Concessions Ordinance. This is purely my personal thoughts, I would not like to take this one more than that, but perhaps after the new scheme of registration has been in force for some time, the position could be different.

HON P J ISOLA:

Mr Chairman, I am amazed at the attitude of the Government to this amendment. I can understand the attitude of the Honourable and Learned Attorney General, don't trust a native.

HON ATTORNEY-GENERAL:

I think that is the most unhonourable thing to say.

HON P J ISOLA:

Well, perhaps I should not put it that way, but it is particularly colonialistic in approach, it is an anti-Gibraltarian stand that the Government is taking. And I will explain why. A chartered accountant is subject to the Society of Chartered Accountants. Well, then a Gibraltar Auditor is subject to an Auditor's Registration Board, in a Gibraltar that has its own House of Assembly and his own Disciplinary Body in Gibraltar to deal with the matter. Why is the Society of Chartered Accountants or something, well we have got them in the Board haven't we? And the Honourable and Learned Chief Minister, and with the greatest respect the Honourable and Learned Attorney General don't seem to understand what the function of an auditor is under this Ordinance. It is quite clearly laid down in 13(2). And that is all that he has got to do. Nothing else. In a public company he has got something else to do. But in a private company which is the great majority, he has nothing more to do than to protect the Gibraltar Government, the Gibraltar tax payer from Gibraltarians taking advantage of the Companies Ordinance, and from Exempt Companies investing in Gibraltar. It has nothing to do with the off-shore image of Gibraltar. That off-shore image, Mr Chairman, with great respect has been severely damaged by scandals like the Signal Life and the Cavendish Insurance, and they had chartered accountants presumably as auditors. But that did not save them. That is what damages the image of Gibraltar, not whether an auditor is a chartered accountant or an auditor registered in Gibraltar. It amazes me, Mr Chairman for the Honourable and Learned Chief Minister to say "We will not support this thing" why then when the question of necessity raised, why is a person who is registered under the Auditor's Registration Board, including chartered accountants, why should that person not be trusted with telling the Financial

and Development Secretary or the Commissioner of Income Tax "Look here, watch this company". My Honourable and Gallant Friend or the Hon Major Dellipiani or somebody else has made a loan to this company. He cannot be trusted with that. But we are going to trust him with certifying the accounts of Gibraltar Airways or Blands, that is alright, but he cannot be trusted with notifying the names and addresses of any resident of Gibraltar. The truth of the matter Mr Chairman is that being an auditor under the Companies Ordinance is a very profitable sinecure. I say, sinecure because nobody in Gibraltar would lend any money to an exempt company when most of them are in the names of nominees or hidden under management agreements, management company which the lawyers all produce. Who in his senses in Gibraltar is going to lend money to an exempt company. So it is a sinecure. And what exempt company is going to invest in an immovable property in Gibraltar and pay 50% tax or 40% tax to the Gibraltar Government. But you want to guard against that, I accept that, but that has nothing to do with the reputation of Gibraltar as an off-shore centre is damaged when the exempt companies hit the limelight as these two companies, and I had the misfortune to be listening on last week on BBC radio on a money programme and they were telling people they must not invest on false off-shore funds because since the scandal of Signal Life and Cavendish it was not advisable to do so. That has nothing to do, Mr Chairman, with auditors, the reputation of Gibraltar as an off-shore centre, has a lot to do with other things. And here we are depriving Gibraltarians whom an Auditor's Registration Board has said they can act as auditors, depriving them of what is in fact a sinecure becoming an auditor of an Exempt Company. Mr Chairman, the last time I raised this which was at the second reading of the Bill, the question of insurance companies was raised. they can be auditors of insurance companies. That is now a red herring Mr Chairman, because the Government is spending a lot of money, a lot of public money on an Insurance Adviser to advise them on what should be done about Insurance Companies, and I am sure the Insurance Adviser is not going to say it is crucial to an Insurance Company that the auditors should be a chartered accountant. He would say a lot more things like complying with EEC directives, lots of other matters like giving security, like the Department of Trade does in respect of English Insurance Companies registered in England. That is the sort of security not whether an auditor is a chartered accountant or an auditor under registration. That was raised in the second reading and I raise it again in case it is in the mind of Honourable Members opposite, because I can't think what possible reason they can have for voting against this amendment except either to protect the chartered accountants in Gibraltar, because I am sure they do not want to vote to protect the chartered accountants in Jersey, Guernsey and the Isle of

Man who don't have such feelings of fraternity for Gibraltar. It must be either to protect the Chartered Accountants in Gibraltar, most of which have increased their numbers from people coming out from England, not from Gibraltarians. Gibraltarian chartered accountants, how many have we got, two? I think that is all we have got. Two or three or is it four. Right four Gibraltarian chartered accountants and how many other chartered accountants are there in Gibraltar. More than double that number, Mr Chairman, more than double that number. I can think of a firm in Gibraltar, Mr Chairman who had one person here, three years ago, and now has three chartered accountants. A firm like that is very welcome, and I am not going to say that we should put restrictions of course not but what I am saying is that our own people, whom we recognise by law to be competent to act as auditors once they have passed through the formalities of the Auditor's Registration Board should be allowed to be auditors and tell the Government whether Gibraltarians have lent money to the company or whether the company has invested in Gibraltar. That, Mr Chairman, is a purely domestic matter, aimed at protecting the local revenue, it is not as protecting the image of Gibraltar as an off-shore centre, the duty to tell the Gibraltar Government whether a Gibraltarian is lending money to that company, or whether the money has been invested by that company in property in Gibraltar. People who deal with off-shore companies, Mr Chairman, registered in Gibraltar, could not care less whether the company gets a loan from a Gibraltarian resident, they could not care less whether that company has invested in Gibraltar in immovable property. It is entirely irrelevant, on the contrary if we are concerned with the image of Gibraltar as an off-shore centre then we should be thinking of putting on the auditors a much greater number of duties than we do under our own Ordinance. And of course we know perfectly well that if we did that we would not have any exempt companies in Gibraltar. Mr Chairman, I would like the Government to reconsider their position on this amendment, because frankly, in my view, the grounds that have been put forward for objecting are irrelevant and they constitute an insult to the integrity of the person who gets registered by the Auditors Registration Board under the terms of this Ordinance.

HON MAJOR R J PELIZA:

Mr Chairman, I have been listening very intently to the discussions that have been going on, because as the House knows, I am very keen in seeing Gibraltar progressing as a financial centre, no one can deny that. From the arguments that I have heard from both sides it seems to me that there is nothing at all in the suggestion of my Honourable Friend or in any way detracting from any advance in that direction. And I would

very much like to hear the Chief Minister, whose objection was precisely that one, whether he could enlarge to prove the fact that my Honourable Friend is wrong in what he is suggesting.

HON CHIEF MINISTER:

Well, I am not an expert in this, but it is true that we have one or two options. We might have to withdraw the Bill and pursue the discussion with the Chartered Accountants or the Finance Centre Group who have had a say in this matter. But that would do much more harm to the people that it is intended to protect than that. I think the way ahead, if I may say so, is the way that the Attorney General has suggested and that we had better have this now, as you were saying when talking about dentists, and you say the people who are working as dentists were not qualified and allowed to do that, right, that is what the Bill does, but you say, no, now that we are going to give them that we are going to give them an opportunity to do another kind of surgery within the mouth but which was not within what is dental surgery. And that is what it is intended to do now. That either we withdraw the Bill now and take it back or I think, the best way to get it through which gives added status to the people who can now register, and see how the thing works and then we can come again, but we have to go back to the Chartered Accountants.

HON P J ISOLA:

Mr Chairman, it means that if the Commissioner of Income Tax today retires from his job, he would not be able to be an auditor under the Companies Taxation and Concessions Ordinance. The Honourable and Learned Chief Minister, what he is saying really is look before I take this step, I want to clear it, it is what happened last time, when I brought my original amendment to this Bill, I had to consult with the chartered accountants. It is like saying that we are going to make a change in the law that affects the lawyers. I have got to consult with the lawyers. If that happened in England, look at the row that is going on in England about the solicitors, people being able to do conveyancing other than solicitors but

here we have a position, Mr Chairman, when we are allowing people to be registered. This is the Government refusing to, this is the Association of the Advancement of Civil Rights refusing to take a.....

MR SPEAKER:

Order, order.....

HON P J ISOLA:

Refusing to allow Gibraltarians the right to.....

MR SPEAKER:

With respect, Mr Isola, we have exhausted the argument, we have exhausted what each side was asking for and I am the sole judge as to when matters are to be brought to a head and I am going to bring it to ahead now. I am going to put the question to the House and let the House express its views.

HON P J ISOLA:

Well, Mr Chairman it is your priviledge.

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

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The amendment was accordingly defeated.

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

The House recessed at 5.25 pm.

The House resumed at 5.55 pm.

THE LAW REVISION (MISCELLANEOUS AMENDMENT) (NO.2) BILL, 1983

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 7 be amended by omitting it and substituting the following Clause, Amendment of Ordinance No.12 of 1983, 7(1) Schedule 2 of the Law Revision (Miscellaneous Amendments) Ordinance 1983 is amended by omitting the item "Magistrates' Court Ordinance Cap (95) Item 3 Schedule (2) Subsection (1) shall be deemed to have come into operation on the 31st day of March 1983". Mr Chairman, this is a correction of an error which crept into the first Law Revision Miscellaneous (Amendment) Bill which went through, Members may recall March of this year, and the opportunity is being taken to redress it.

Mr Speaker put the question which was resolved in the affirmative and Clause 7, as amended was agreed and stood part of the Bill.

Clauses 8 to 33 were agreed to and stood part of the Bill.

HON ATTORNEY-GENERAL:

I move that a new clause be added after Clause 33. "Amendment of Cap 49, (34), the Employment, Injuries Insurance Ordinance to be amended by omitting from Section 24 the words "under 20 years of age". Mr Chairman the whole purpose of this Bill is to make miscellaneous amendments to the statute law of Gibraltar for the purposes of the Reprint of the Laws,

which cannot be done under the powers conferred upon the Commissioner for the Law Revision, under the Revised Revision of the Laws Ordinance, 1981, in other words, he has certain editorial powers, but if substantial changes are made, it must be the subject of a Bill. Mr Chairman, I would like to say inevitably, at the end of the exercise, there are always, tail-end charlies, if I may use that expression. This Clause, and the following Clauses, so that miscellaneous improvements to the law which we would like to have made, if the House will agree, and before the reprint is completed.

New Clauses

The Hon the Attorney-General moved that the Bill be amended by adding, after Clause 33, the following new clauses.

- "Amendment of Cap. 49. 34. The Employment Injuries Insurance Ordinance is amended by omitting from Section 24 the words "under twenty years of age".
- "Amendment of Cap. 89. 35. The Legitimacy Ordinance is amended by omitting from paragraph 5 of the Schedule the words, "not exceeding in the aggregate ten shillings".
- "Amendment of Ordinance No. 5 of 1973. 36. The Medical and Health Ordinance, 1973, is amended by inserting in section 45(2)(1), after the word "Codex" the words "which was last published before the date on".
- "Amendment of Cap. 134. 37. The Public Trustee Ordinance is amended by adding to section 15(2) the words "and liable on conviction to imprisonment for 2 years".

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment which was resolved in the affirmative and New Clauses 34, 35, 36 and 37 were agreed to and stood part of the Bill.

Schedule

The Hon the Attorney-General moved that the Schedule be amended by omitting in the first column the figures "156" and substituting the figures "157" and that the Schedule be placed after Clause 37.

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

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

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

THE SUPREME COURT (AMENDMENT) BILL, 1983

(Less Clauses 2 and 6 which had already been dealt with).

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

Clause 3

The Hon the Attorney-General moved that Clause 3 be renumbered as Clause 2.

Mr Speaker put the question which was resolved in the affirmative and Clause 3 was accordingly renumbered Clause 2.

Clause 2 (old Clause 3) was agreed to and stood part of the Bill.

Clauses 4 and 5

The Hon the Attorney-General moved that Clauses 4 and 5 be omitted.

Mr Speaker put the question which was resolved in the affirmative and Clauses 4 and 5 were accordingly omitted.

Clause 7

The Hon the Attorney-General moved that Clause 7 be renumbered as Clause 3.

Mr Speaker put the question which was resolved in the affirmative and Clause 7 was accordingly renumbered as Clause 3.

Clause 3 (old Clause 7) was agreed to and stood part of the Bill.

Clause 8

The Hon the Attorney-General moved the following amendments:

- (i) to renumber Clause 8 as Clause 4.
- (ii) to omit paragraph (b), and to renumber paragraph (c) as paragraph (b).

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 4 (Old Clause 8) as amended, was agreed to and stood part of the Bill.

Clause 9

The Hon the Attorney-General moved that Clause 9 be renumbered as Clause 5.

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

Clause 5 (old Clause 9) was agreed to and stood part of the Bill.

Clause 10

The Hon the Attorney-General moved that Clause 10 be omitted.

Mr Speaker put the question which was resolved in the affirmative and Clause 10 was accordingly omitted.

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

THE CRIMINAL OFFENCES (AMENDMENT) BILL, 1983

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

Clause 3

The Hon Attorney-General moved that Clause 3 be amended as follows:

In new section 4C(2) on page 190 to omit "4A" wherever it occurs and substitute "4B".

In new section 4D on page 191, to omit "4A" and "4B" and substitute "4B" and "4C" respectively.

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

Clauses 4 to 12 were agreed to and stood part of the Bill.

Clause 13

The Hon Attorney-General moved that Clause 13 be amended as follows:

In the new section 223D(1), to omit the words "Justice of the Peace" and substitute the words "police officer".

In the new section 252A(3), to omit "subsection" and substitute "section".

Mr Speaker put the question which was resolved in the affirmative and Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14

The Hon Attorney-General moved that Clause 14 be amended as follows:

In the new section 252A(1), to insert after the words "where a person" the word "owing".

Mr Speaker put the question which was resolved in the affirmative and Clause 14, as amended, was agreed to and stood part of the Bill.

Clauses 15 and 16 were agreed to and stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 17b, be amended by omitting 20 and substituting 21. If I may explain, this Bill contains the provision earlier on, Clause 4, which defines the crime of murder, statutorily, whereas previously up till now, as at this moment it is defined by common law, and because it is a common law definition, and because in the way in which attempts to murder are dealt with by a law, there are provisions in the Criminal Offences Ordinance, mainly Sections 17 to 20, which have statutory definitions of an attempt at murder, and so does section 21. But, when this Bill becomes law, and in view of other provisions that have been enacted, are being enacted, I should say, there will no longer be a need for separate statutory definitions of attempted murder, because they will be caught by the general provision on attempts in our law, and we consider that not only does this apply to Section 20, but it can also equally apply to Section 21, which is another head of statutory attempted murder. So in other words, this is really a consolidation exercise, eliminating unnecessary references.

Mr Speaker then proposed the question as moved by the Honourable Attorney-General.

HON A J HAYNES:

Mr Chairman, this is one of a general nature.

MR SPEAKER:

No general principles, you had plenty of time to do that on the Second Reading.

HON A J HAYNES:

Well if I may ask the question, Sir. Given the numerous and substantial amendments, is the Attorney General proposing that these amendments should be left as an auxiliary to our Criminal Law, or is he proposing at a later stage to introduce a New Criminal Offence Ordinance, given the confusion that may arise from the most important aspect of Criminal Offences and which relate to murder and treason as being part of this amendment.

HON ATTORNEY-GENERAL:

Can I explain, I understand the point being made. This is an amending Bill. We have a Criminal Offences Ordinance, as the Honourable Member knows. This will be an amendment to that. This amendment will pass by the House this year, and as from the beginning of next year there will be a Reprint of the Laws. In the reprinted version of the Criminal Offences Ordinance, the Commissioner for the Law Revision, for the Law Reprints, has within the editorial powers already given to him under the revised provisions of the Laws Ordinance 1981 restructured the Criminal Offences Ordinance, and these amendments will be incorporated into it. We need these amendments because they are more than simply editorial amendments, they contain an element of substantive representations about them.

HON A J HAYNES:

Would it therefore be possible for the editorial to remove the numbering and change the numbering, rather than have 252a's and 252b's etc.

HON ATTORNEY-GENERAL:

Yes, Mr Chairman, this is being done now to take away from that and of course the new reprint of the laws of Gibraltar will have new numbering completely. I thought the Honourable Member was going to ask me about the index but I have already spoken about this.

HON A J HAYNES:

One last question, who is the person in charge of reprinting? The Commissioner? I am not quite sure.

MR SPEAKER:

Is that not Sir John Farley Spry.

HON ATTORNEY-GENERAL:

Yes, the Commissioner for the Reprinting of these Laws, the Statute Laws of Gibraltar is Sir John Farley Spry.

HON A J HAYNES:

It would be Sir John who would do the editorial work on this.

THE IMMIGRATION CONTROL (AMENDMENT) (NO.2) BILL, 1983

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

Clause 5

The Hon Attorney-General moved that Clause 5 be omitted.

Mr Speaker put the question which was resolved in the affirmative and Clause 5 was accordingly omitted.

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

THE LANDLORD AND TENANT BILL, 1983

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

Clause 2

MR SPEAKER:

There are several amendments to Clause 2, is that correct.

HON ATTORNEY-GENERAL:

I think there is an amendment which precedes mine.

MR SPEAKER:

No there isn't. The first amendment for the Honourable and Leader of the Opposition is to Clause 3(9)(11).

HON ATTORNEY-GENERAL:

I am sorry, I am wrong. Perhaps I should move the first amendment of that section.

MR SPEAKER:

Which amendment are you first going to move? You have got two amendments.

HON ATTORNEY-GENERAL:

I would like to take first the major one which is the one that forms part of the lengthier amendment Mr Chairman.

HON P J ISOLA:

Could we have some clarification before the Honourable and Learned Attorney General starts moving his amendments. Are we right in thinking that the amendments that have been circulated today include the amendments that were previously circulated except for another amendment that we got this afternoon? We only have to look as far as the Honourable and Learned Attorney General is concerned, at two documents, is that correct?

HON ATTORNEY-GENERAL:

Mr Chairman, can I explain how the matters are being presented so that Members do understand what is proposed. There are two documents at present before the House, the two notices of motion I have given to amend this Bill. The two bear today's date, the 12th September, 1983, Mr Chairman, in the case of the more substantial amendments I have taken the liberty of attaching to the front an explanatory note for the convenience of Members. If I can deal with a more substantial amendment first, can I make the point that for convenience of reference they incorporate all the proposed amendments which were distributed last week. They also incorporate two other kinds of amendment. The first and most substantial is referred to in paragraph 2 of my explanatory notes, and that is revised transitional provisions which will be found on page 9 of the amendments and they affect the Fourth Schedule. The second are a number of amendments of a drafting nature which I will explain as I come to them. Apart from that, Mr Chairman, the second notice of the proposed amendments relates on to Clause 2. Mr Chairman, I have to say that I have four other very minor amendments which are purely consequential on references which have been made and I will deal with those at a later stage.

MR SPEAKER:

Over and above the ones you have given me?

HON ATTORNEY-GENERAL:

Yes, they are four little references that have to be dealt with.

MR SPEAKER:

It is very confusing to have thrown at one so many amendments because one is trying to conduct proceedings without having been given notice of what is happening. In any case we will try and cope. We have been thrown amendments without notice whatsoever and I think this is unfair, particularly to the Chair, not to be given at least some notice of what is expected. At any rate we will try and do our best, certainly.

HON ATTORNEY-GENERAL:

I appreciate that, Mr Chairman, and I apologise to you. As I come to them you will see that they are very minor matters. Mr Chairman, may I move in relation to Clause 2, I propose to take first what I would call the larger list of amendments. May I move in relation to Clause 2 that it be amended in the following respect: In the definition "court" to insert after "Part IV" the words "and the Third and Fifth Schedules". And in the definition "current tenancy", to omit "means a tenancy referred to in" and substitute "has the meaning assigned to it by". To insert after the definition "mortgage" the definition "net annual value" has the same meaning as it has in Section 310 of the Public Health Ordinance. And in the definition "rateable value" to omit "first day of January, 1984" wherever it occurs and to substitute in every case "commencement of this Ordinance". In the definition "statutory rent" to omit "section 11" and substitute "this Ordinance". Mr Chairman, none of these amendments arise out of anything that has been said in the Second Reading debate. They are all what I see as drafting improvements necessary. Drafting improvements to the definitions in Section 2 of this Bill for greater clarity or for greater precision.

MR SPEAKER:

Now, before I put the question to the House, I would like to ask the House two things. Does any Member wish to speak on the consequential amendments that are being proposed and do you want separate votes on each of the amendments?

HON P J ISOLA:

Mr Chairman, I would like to make a general comment.

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

HON P J ISOLA:

Mr Chairman, the comment that I would like to make, very short, is that we have received a number of amendments from the Hon and Learned Attorney-General on Friday and now we have had some more today, and I myself have spent a weekend trying to look at this Bill. We have voted against it, for the reasons that we have already stated, the reasons we voted against it are obviously shown to have weight with the number of amendments we have had from the Attorney-General, over 27, I have put 27 down and goodness knows what other amendments should be made, I can think of three or four that I have not put down purely and simply through pressure of time. What I want to say is that we are making an effort to improve this Bill as much as we can but we are voting against it for all the reasons that have been said. We will not vote against every amendment as we go along but we will be voting against the Third Reading of the Bill and we think that it is utterly wrong that the Government should push this Bill, with all the amendments and all the problems that will arise as we go through the amendments as I will endeavour to indicate at this meeting of the House. If it sees that the Government does not intend to have another meeting of the House it is understandable but if the Government is going to have another meeting of the House in January, then I would urge the Hon and Learned Chief Minister to defer consideration of the Committee Stage of this Bill until then.

HON CHIEF MINISTER:

Mr Chairman, the way I look at this amendment, first of all, I think we must try and concede that this Bill has suffered a lot of hiccups and there has been now plenty of time. The Bill was published on the 29th November and there has been plenty of time in the long weekend in which to look at it. The way in which we would look at the amendments proposed by the Leader of the Opposition is that one or two affect policy and we would like to have them discussed and say the reasons why we accept them or not accept them. The others, according to what my Learned Friend the Attorney-General has told me, are amendments which he does not advise the Government to accept, they are not of substance but they are of drafting and with the greatest respect to whoever tries to make amendments, we must be guided by the Attorney-General in these matters. I think perhaps our own amendments could first be considered and let us see whether the amendment on the same Clause by the Opposition should be looked at.

MR SPEAKER:

There are very few amendments which clash, I think there are only two instances.

HON CHIEF MINISTER:

I think that according to the notes that the Attorney-General has prepared for me, there are only six or seven all in the first page which go to the substance, the rest is a matter of definition and drafting.

MR SPEAKER:

What I was trying to say was that whilst there are amendments to the same clauses being proposed by both the Learned Attorney-General and the Learned Leader of the Opposition, in substance the amendments do not clash with each other, let us put it that way.

HON ATTORNEY-GENERAL:

I have had the opportunity of going through these amendments proposed by the Hon and Learned Leader of the Opposition. In many cases once the Government's amendments are heard, I think it will be seen either that they subsume the points which are being made or that there are reasons why the Government does not wish to adopt them. I think I may have misled the Hon Chief Minister in the sense that there are some points which I see as points of policy being proposed by the other side of the House. I do not think they are all on the first page, I think they go a little bit beyond the first page, but there are a small number which are of policy.

HON P J ISOLA:

I cannot agree with that statement at all. For the Hon and Learned Chief Minister to say that we have had plenty of time over the weekend to deal with a complicated Bill with a number of amendments when the Government has had I don't know how many months to deal with the matter and it is still amending it, is absurd.

HON CHIEF MINISTER:

I said the Opposition has had the weekend not us.

HON P J ISOLA:

Yes, and it is still amending its own Bill. I have put in 27 amendments and the Hon and Learned Attorney-General has put in 37 amendments to his own Bill, and to expect this House to produce from that a sensible piece of legislation to my mind is asking too much and it will not be a sensible piece of legislation. I can assure the Hon and Learned Attorney-General there are a number of points that I raised in debate and a number of drafting points that I would have liked to have more time to have dealt with which it just has not been physically possible and I am sorry that a Bill which is so controversial and a Bill that has such an enormous consequence for landlords and tenants in Gibraltar, is being rushed through.

MR SPEAKER:

Well, in fairness, the points have been made, it is obvious that Government intends to proceed with the Committee Stage of the Bill, we will therefore proceed and see how we go through it. I will then put the question because I do not think anything of substance has been raised on the actual amendment which is being proposed to Clause 2.

HON P J ISOLA:

Mr Chairman, I would like to ask the Hon and Learned Attorney-General in Clause 2, in the definition, where he says in the definition of "statutory rent" to omit "Section 11" and substitute "this Ordinance", that is quite a substantial amendment, is it not?

HON ATTORNEY-GENERAL:

Mr Chairman, in view of the complexity of the matter, I would like to explain each of the amendments point by point.

HON P J ISOLA:

In the definition "current tenancy" means a tenancy referred to in subsection 1 of section 44. Now it reads: "has the meaning assigned to it in subsection 1 of section 44".

HON ATTORNEY-GENERAL:

I will be happy to explain, Mr Chairman.

HON P J ISOLA:

But section 44(1) refers to a tenant's request for a new tenancy. What does that mean?

HON ATTORNEY-GENERAL:

Well, I will be happy to explain, in fact, in the existing Landlord and Tenant (Miscellaneous Provisions) Ordinance, there is a reference in the corresponding section to the definition of what the words "current tenancy" means, and "current tenancy" means a tenancy which is coming up for review either by way of opposition by the landlord opposing a grant of a new tenancy or by the tenant seeking a new tenancy so that word is defined in the existing Ordinance in the relevant section and will simply be brought forward into this Bill where it is defined in Section 44. If the Hon and Learned Member looks at Section 44 he will see that there is a definition in there of "current tenancy". The only reason for the proposed changes of committee, Mr Chairman, is that

there is a slight looseness of language in the way I had originally defined it in Section 2, I had said that it means a tenancy referred to in Section 44(1) but that is not precise enough. What it has got say, is that it has got the same meaning as it has in Section 44(1), it is purely a drafting point.

MR SPEAKER:

Are you now happy, Mr Isola?

HON P J ISOLA:

Yes, thank you.

MR SPEAKER:

And now Mr Isola, you wanted to speak on this particular amendment which is in the definition "statutory rent" to omit "Section 11" and substitute "this Ordinance".

HON P J ISOLA:

I just wanted to ask why he is omitting "Section 11" from the definition because it seems to me there are other sections that deal with the "statutory rent" like the new Section 15. I would just like an explanation and then if it is wrong, well, there it is.

HON ATTORNEY-GENERAL:

I will be happy to explain, Mr Chairman, Clause 11 of this Bill is the basic clause which says what the statutory rent is. That is the starting point of saying what is the statutory rent of this dwelling-house. But there are other provisions in the Bill, for example, Clause 12, which deals with adjustments for rating, Clause 13 which deals with adjustments for improvements and Clause 14 which deals with adjustments for subletting and even other Clauses later on where that statutory rent can be varied one way or the other. I think it is clear that where you have one clause saying that the statutory rent is so and so but you read on and you see that there is provision for modifying it, I think even there there is a reasonable implication of interpretation if that is to be taken as modifying it but as Members rightly pointed out this is an important Bill and it is one on which there will be a lot of argument, there is always argument over landlord and tenant law, and so all I am doing in the definition is to make it clear that it is not necessarily the rent prescribed under 6 and 11, it is the rent prescribed under the Ordinance, having a look at the whole scheme of the Ordinance, so it is really just a drafting device to make sure that there is no conflict.

Mr Speaker then put the question in the terms of the Hon the Attorney-General's amendment which was accordingly carried.

HON ATTORNEY-GENERAL:

Mr Chairman, I also move the amendment of Clause 2 by having the following additional subclause "(3) For the purposes of this Ordinance, where - (a) any premises are held by a company or other body corporate, and (b) it is material for any purpose of this Ordinance that such holder of the premises has transferred or assigned or ceased to occupy the premises - then unless a court of competent jurisdiction otherwise determines, any transfer of the shares in the company or other body corporate, or any change in its membership, shall constitute such a transfer, assignment or cesser of occupation, as the case requires". The purpose is to avoid the provisions of the Ordinance being got around where somebody, either a landlord or a tenant, holds by the device of a company and the company remains the landlord or the tenant, as the case may be, but in effect the shares change hands and the idea is that where it is material that there has or has not been a change of ownership or a change of occupation, the idea is to prevent this being used as a device to get around the provision and I think in point of fact this is one of the examples I was referring to before, Mr Chairman, which touches upon the same ground as the amendment proposed by the Hon and Learned Leader of the Opposition.

MR SPEAKER:

Being in Committee and being of the legal profession, too, may I ask does this mean that the transfer of a single share in a company would fall within this definition?

HON ATTORNEY-GENERAL:

Unless the court otherwise determines, as drafted here.

MR SPEAKER:

Most certainly, unless you go to court and the court makes a declaration but the mere transfer of a single share would bring the company within this definition.

HON ATTORNEY-GENERAL:

Yes, indeed, as it is drafted that is how wide it is. If it was felt that in practical terms there was no real change in ownership, it would be open to a party to go to court and say: "We submit that even though there is a transfer of shares it is of no material consequence".

HON P J ISOLA:

Mr Chairman, I have put down amendments under my name to Clause 48 of the Bill and I think it appears somewhere else, Clause 68, and in my view, the amendment should be there and I will say why. This particular section does not really achieve what I think ought to be achieved. The general idea in this, as I see it, is that if somebody buys shares in a company that has owned a property for five years, he should not be able to claim possession of that property until he has been owner of these shares for five years. That is a simple principle which everybody will agree with. Equally, in fairness, if somebody is going to sell a business, under the provisions in the Ordinance he has got to pay two years rent to the landlord. And equally that person could get round that provision by selling the shares in the company. The two amendments that I put down were intended to deal as fully as possible with that situation because, Mr Chairman, it is not as simple, I am afraid, as it is made out in this particular Clause proposed by the Hon and Learned Attorney-General. It is quite easy not to transfer the shares. There are a number of ways of getting round it so that the thing that has to be got at is the beneficial ownership of the shares, not the fact of transfer. In other words, that if somebody proves, because it may not be easy to prove, but he must have the chance to prove it that the beneficial ownership in fact rests still with that shareholder and there are different ways of showing the beneficial ownership has changed, Mr Chairman. For example, directors are changed in a company indicating new ownership, shares could be held by the same person and things like that. It is a very complex question and I think that it ought to be in the section that you are dealing with rather than in a section at the beginning. The Government proposes in its amendment, by the way, to do away with three of the sections in that Clause and we do not agree with that, Section 48. Section 48(2) is the one where a landlord cannot oppose an application if he has bought the interest at any time at the beginning of a period of five years. I am, in fact, suggesting an amendment in this Clause that if the landlord in fact decides to take the premises for himself and pay compensation, he should not be able to let it to somebody else the next day and the effect of the amendment proposed by the Hon and Learned Attorney-General will bring that about. I say that because it is necessary as a background of what I am saying now. And, equally, if a landlord wants possession because he is going to redevelop the premises, the right of the tenant existing presently in the Ordinance to have premises in the redeveloped premises also disappears in the amendments proposed by the Hon and Learned Attorney-General in the Bill. So that somebody could come along and say to a tenant: "I will pay you my ten years", and at the same time that he is saying that he could have his new tenant lined up to pay him the same money and change tenancy. That is not the intention of the Select Committee nor the intention of this House. I say that at this stage because I think this is a very important Section - 48, it is

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a very important Clause because if the amendments that have been proposed by the Hon Attorney-General to that Clause are carried through, then a chap who is a very big developer or anybody with a lot of money can come along and say: "Right, here is your twelve year's compensation", and have lined up the next guy, a bank, or somebody who pays twenty-four years rental value and get the premises and he has done nothing against the law and that is wrong, that is what I am trying to insert back in my amendment to Section 48. The amendment that I am suggesting to Section 48, if I can find it. For the purposes of subsection 2, that is, where the landlord wants it for himself, in the case of a limited company which is a landlord, the interest of that landlord shall not be deemed to have been purchased or created before the beginning of the period of five years that ends with the termination of the current tenancy if the beneficial ownership in that company shall have changed at any time during the period of five years immediately before the termination of the current tenancy. I say the beneficial ownership of that company because I think it is important that we should go to the root of the problem which is the beneficial ownership of the company and I do the same thing in the assignment of leases. This particular amendment, for example, as I read it, the one now proposed by the Hon and Learned Attorney-General, would seem to be an amendment that only affects the tenant and not the landlord because it says "for the purpose of this Ordinance where any premises are held by a company or other body corporate", it is not "are owned by a company or other body corporate", but "are held". That indicates tenancy and it is material for the provision of this Ordinance that the holder of the premises has transferred or assigned or ceased to occupy the premises. Then "unless the court otherwise determines any transfer of the shares in the company or other body corporate or any change in its membership should constitute a transfer, assignment or cesser of occupation". It seems to me that that captures the tenant but not the landlord, that particular amendment, and I have made provision for that sort of amendment in the clause that deals with assignments. I don't say it is perfect, what I say is: "for the purposes of this section where the tenant is a limited company, any transfer or change in the beneficial ownership of any of the shares of the company shall be deemed to be an assignment and subsections (1) and (2) of this section shall apply".

HON J B PEREZ:

In order to save time, if the Hon Member will give way. I do not understand how the Leader of the Opposition says that this proposed amendment does not catch the landlord. I fail to see his argument.

HON P J ISOLA:

Well, if you hold premises, that does not mean you own them. Bland Limited holds premises in whatever it is, in Irish Town, it does not own them.

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MR SPEAKER:

It will catch the lessee but not the owner.

HON P J ISOLA:

But not the owner. I do not say my drafting is absolutely accurate, looking at it now, and I would like to change it myself but of course there is the time factor.

HON CHIEF MINISTER:

May I just interrupt, in respect of this and another aspect of it which I have discussed with the Attorney-General. I realised it before but we have not given it sufficient time. In the present Ordinance, in my view, there is a distinction between wanting the premises for yourself and wanting to reconstruct because in reconstructing you do not need all the premises in any case and you may reconstruct and not want it for yourself. In the present Ordinance and as a result of an amendment which I proposed when it was first passed in 1959 and that is the Landlord and Tenant Act in England which provides for an owner to obtain the premises for himself, pays compensation whether it is for himself or for purposes of reconstruction. In respect of our law, it remains the same as in England when it was wanted for himself but in respect of reconstruction precisely because of the lack of space particularly if you have been accredited in a particular area, there is a provision which says that in the case of reconstruction at the end of reconstruction, the landlord is compelled to give to the tenant premises similar in area and occupation which means that if you want to reconstruct a whole big building and you have one tenant who wants to remain, who has not agreed to compensation or what have you, he has to be given premises more or less similar, that is, if in Main Street it cannot be in Irish Town and if it is 840 feet it does not matter if it is 800 or 900. I would like that to remain in the Ordinance, I want that to remain but not in lieu of the question of the owner wanting it for himself. That is separate, and for two reasons, I think, it ought to remain. I have told my Learned and Hon Colleague that that was not given too much thought in the recommendation of the Select Committee because they had this rather overriding provision of alternative accommodation. I think, in my own view, first of all because it is unfair to the tenant and, secondly, because it deters development if you cannot make reasonable arrangements for alternative accommodation and therefore I would suggest that we go on to less controversial clauses now or rather less fundamental clauses, they may be controversial but not fundamental, and we have time over the adjournment to see what kind of amendment we can bring to cover those points, which is one which we are interested in covering.

MR SPEAKER:

There is no reason why we should not defer the Committee Stage of any given clause.

HON P J ISOLA:

Well, this one might well be deferred, Mr Chairman, because my own view when a person wants to redevelop is that the tenant, and I have not had time to draft that, I have drafted 27 amendments which is the most I have been able physically to do in the weekend that I have had on this. I think that the present provision for giving the tenant premises should stay but I think it needs changing that is why I did not do it I did not put it back in. I certainly think that if a landlord is going to redevelop premises, any tenant in those premises should have a right to premises in the new development and the arbiter of what is a reasonable size etc, should perhaps be the Rent Assessor or somebody else but that provision disappears from this Ordinance at the moment, it has been taken out of the Bill, and I just put back what I think is a glaring injustice that a landlord can buy himself out of a tenant by just giving him compensation and no provision prohibiting him from letting it to anybody else without first offering it to the tenant. I know all this is in Section 48. Clause 48 of the Bill, as far as business premises are concerned, is the crucial section and I think that so that there will be no trouble, no doubt as to what the legislature means, the question of what the landlord or the interest of the landlord is in cases where shares in companies pass and not properties, that is where it should be, in Section 48. I do not think that this particular Clause meets what I think it is intended to meet and I do not think it does. I personally think it meets the position of a tenant. For example, under a later clause, a tenant who sells his premises has to give the landlord two year's rent, and it is equally fair that a tenant should not be able to get round this by just selling the shares and not giving the two month's rent so I make an amendment in that clause specific to that clause. I do not think there is anywhere else in the Ordinance that you need that definition changed but I am afraid that this particular clause doesn't meet, in my view, anyway, what it apparently intends to do.

MR SPEAKER:

Well, perhaps, the answer might be, as has been suggested that we should defer this clause until a later stage.

HON CHIEF MINISTER:

It is one in which we seem to have the same idea but we do not seem to get the right answer.

MR SPEAKER:

Well, then we will call Clause 3.

HON ATTORNEY-GENERAL:

I would simply like to explain for the record why I put it in Clause 2. It was that I saw it as a provision of either general application now or potentially general application. In other words, there is more than one place with the question of whether or not there has been a transfer of ownership was material. The only reason that it is in Clause 2 was that I felt that that was the general part to put it but that is really a matter of presentation.

Clause 3

HON P J ISOLA:

I have got an amendment to Clause 3(2).

MR SPEAKER:

Yes, but there is one to subclause 1(a) by the Hon Attorney-General which he might move first.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that subclause 1(a) be amended by inserting after "subtenant" the words ", and any person from time to time deriving title under the original tenant". That is bringing forward the words which are already in the existing Ordinance but which because of the way in which the new Ordinance is represented in layout, had been split up in different places. If I can actually refer the Hon and Learned Leader of the Opposition to the relevant Clause if he were to wish us to look at Section 2, subsection (2) of the existing Ordinance he will see where that amendment comes from.

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

MR SPEAKER:

Now Mr Isola, you have got the next amendment, which is Clause 3(2).

HON P J ISOLA:

Mr Chairman, in moving this Clause, I will touch on Clause 3(4) if I may as well because it illustrates the amendment that we are seeking to this Clause and I have got another amendment to my amendment.

MR SPEAKER:

You have not moved it so you can read it the way you want to move it now.

HON P J ISOLA:

It says: In Clause 3(2) delete all the words after the words "Tenant's family" in that sub-paragraph and substitute the following "means a member of the deceased tenant's family who has lived with the deceased tenant" - and now I am bringing in a change - "for a period in the aggregate of not less than six months during the period of twelve months immediately before the tenant's death". Mr Chairman, in moving this amendment I am conscious of the fact that we take away 'son or daughter' and we are just talking about a member of the tenant's family as is generally understood. In the next subclause there is provision as to how you decide if there is dispute between members of the family, you decide how that is done, if they cannot agree then they go to the court or to the tribunal, I think it is the court. The reason why I say this, Mr Chairman, that it should just be a member of the tenant's family, the reason why I say this is very simple. Normally, it would be the son or daughter but you can have two sisters living in a house, a flat. One sister gets married and the husband comes to live in that flat and they have a son or they have a daughter and the sister who has got the daughter dies. It seems to me that the son does not have a prior right to become the tenant over the other sister who has been living there all her life, that is just one example, and like that I think you can find lots of examples. Mr Chairman, in my view, at the end of the day there should be no problem in deciding who should be the tenant because if the members of the family do not agree, it is unlikely to happen, each conflicting member or each member in conflict could go to the court and the court will decide, it would look at the circumstances of the case. But it seems to me utterly wrong that an aunt, a spinster aunt or a spinster or a bachelor uncle who has been living all his life in that flat should not be entitled by law to be a tenant but it should pass on to somebody who is probably 18 years old, wanting to marry and so forth. If I may at this point explain my amendment to Section 3(4) where I again

MR SPEAKER:

Is it related?

HON P J ISOLA:

It is related because it fits again into this picture.

MR SPEAKER:

Yes, but may I warn you that you are proposing an amendment to a subsection which is going to be deleted and substituted by another one.

HON P J ISOLA:

I know.

MR SPEAKER:

As long as you are happy to talk on that one.

HON CHIEF MINISTER:

It will have the same effect one way or the other.

HON P J ISOLA:

The point of principle I am amending here is that the question of who is entitled to be the new tenant should be a matter for the people living in that house, a member of the tenant's family. I have given you the example, Mr Chairman.

HON J B PEREZ:

Under the example that you gave before, the husband, the man married to the sister, would have been entitled to the tenancy on his wife's death.

HON P J ISOLA:

Sorry, I don't quite get that.

HON J B PEREZ:

In the example that you gave before, which I am again quoting, you said that one of the children would not benefit, would be unable to claim the tenancy. Of course not because the tenancy would be claimed by the husband, by the father.

HON P J ISOLA:

That is a bad example, I agree.

HON J B PEREZ:

The point is that the principle behind the drafting, whether it is the Attorney-General's drafting or the amendment proposed by the Leader of the Opposition the intention is two

transmissions, this is what we are saying. I understand the principle of the 18 months, that is a different thing altogether. What I do not follow about the argument that is being put from the other side is what are you trying to change in your amendment? Forgetting the 18 months.

HON P J ISOLA:

The only principle that I am trying to change is that a son or daughter should not have the priority that this section gives them. I think it should be a member of the tenant's family and, therefore, if there is an aunt or an uncle or other people who should be considered it should be open to them to be considered. It is more important in the next one. In the two transmissions, subsection (4), it is much more important, the point I am making is far more relevant in that sub-paragraph because in that sub-paragraph you only rely a transmission a second time to a son or daughter but not to an aunt or anybody else living in the house. What I am saying now is far more relevant to the second transmission because under the proposed draft of the Hon and Learned Attorney-General, the second transmission only takes place in favour of a son or a daughter but not in favour of an uncle or an aunt or anybody living there, they are all thrown out. The point on my amendment on this one, Mr Chairman, is purely and simply, I can see it, that it should not be a period of eight months, it should be a period of six months over a period of 12.

MR SPEAKER:

In other words, your amendment to 3(2) still stands.

HON P J ISOLA:

That is it, but the two points of principle contain who is entitled to become the tenant when there is not a widow or a widower should be a member of the tenant's family and if they cannot agree amongst themselves then leave it to the court to decide.

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

HON M K FEATHERSTONE:

Sir, I feel we must resist this amendment because it is getting away completely from what was debated very seriously and over quite a long period in the Select Committee. The Select Committee's feeling was that if it was becoming reasonably obvious that a certain tenant was liable to die within a fairly short period of time, one did not want the indecent haste of somebody moving in to be able to take over the tenancy upon that death. Initially the Select Committee,

I believe, thought that the person who should be able to take over should have lived there for a period of three years and after a reasonable discussion it was reduced to the period of 18 months. But if we accept the 6 months, even on the aggregate of 6 months in the 12, it would still mean that if you knew that somebody had, for example, a terminal cancer, they could move in in the last 6 months and they would therefore have been there 6 months on the aggregate of the previous 12 months and they would qualify with just the 6 month period. The other point, Sir, that the Hon Mr Peter Isola has made does not go exactly as far as the transfer to a member of the family with what the Select Committee felt. The Select Committee felt that in all circumstances the spouse and then the children should have the first right and the Government modified it in the instance where you did not have a spouse but you had another member of the family living there, say, a sister or what have you, and the children were under age. Then it could of course pass to that sister but on her death it would go back to the children of the original tenant because you might get the instance in which you had a sister who took over the tenancy, she then married herself, she had children and those children would have the right over the children of the original tenant which is the persons that the Select Committee thought should be in the most favourable position.

HON P J ISOLA:

That is not the case, Mr Chairman, this is precisely the point I am making. That is why I say it should be a member of the tenant's family because you can get a situation where the child has the right to that tenancy under this provision and a sister or an aunt or somebody who has been living there all her life is then ousted, not ousted but does not get the right, the child dies and she is ousted. What has been done, I think, in the legislation in England is precisely to allow the members of the family to decide it and then put the case to a Court or a Tribunal if there is disagreement. Because the instant case that the Minister has referred to, it could be fair on what he has said to those original people but it could also be unfair to the others. It is a matter that you cannot have a rule of thumb. You cannot say son or daughter finish because you have got to look at in what circumstances the father or the mother became a tenant. That is why I think it makes much more sense to say a member of the tenant's family. Usually there should not be disagreement, Mr Chairman, usually, and if there is then let everybody put their case. What I am trying to indicate is that not in every case should it be a son or a daughter. For example, an aunt is left high and dry who has lived there all her life, and a son comes in, marries whilst he is a tenant, has children, and that aunt loses all her right and the son dies then. What happens? I am going on the practical side, I have had experience of these situations. In other families, for example, the family agrees, yes, let us make the spinster the tenant because she has always lived there and she goes

and gets married and leaves the house or brings in the husband. It is impossible, in my view, to set priorities. That is why I think it is much better to leave it to the family to decide and in the absence of agreement let the Tribunal decide. But in some cases it may be absolutely unjust to make a son or daughter a tenant and that is why I suggest that. On the question of the period of time, with the greatest respect to the Select Committee, that they should have suggested three years, that has been very harsh I think. In England it is six months and I do not see anything wrong with that, six months is quite a period of time. And I said six in a period of twelve months in the aggregate because you get situations where people may have given up the house to go and live with the in-laws.

HON MAJOR R J PELIZA:

Mr Chairman, the suggestion of the Leader of the Opposition is a much more equitable one, I would have thought. This objection of departing from what the Select Committee recommend, well, I think there are plenty of precedents already in this Bill where the Government has departed from the Select Committee's suggestions.

HON W T SCOTT:

Mr Chairman, if I may make a point arising out of Clause 3(2), it seems here that within the eighteen month period mentioned, it does not protect a set of circumstances where a daughter is living with a widowed mother, for example, in this particular tenancy all their lives. The daughter decides to get married and because the chemistry is not right between the son-in-law and the widowed mother, the young married couple decide to live in cramped conditions with the son-in-law's family. Within a few weeks the widowed mother dies and according to this the daughter has lost all her rights by moving out having lived there all her life.

HON CHIEF MINISTER:

There is one point with regard to the question of period of time which clashes somewhat with the forms of tenancy agreement of heavily subsidised housing which is that a tenant should reside at least 270 days in the year otherwise he is liable to forfeit his tenancy so somebody can come in and in six months acquire the right which a tenant, a full tenant in Government dwelling living less than nine months can forfeit his tenancy.

HON P J ISOLA:

It could be changed to nine months and then that actually coincides with the Government policy on tenancies, it could be nine months. I think eighteen months is very long, frankly. Nine months out of the previous twelve.

HON CHIEF MINISTER:

What makes it even worse is to have bits and pieces making it into one period. That lends itself more to artificial acquisition of rights than a period, be it nine, twelve or eighteen.

HON P J ISOLA:

The trouble, Mr Chairman, with that is that I am a bit worried as to how the Courts would regard a situation where somebody is living, say, for a whole year before the death and happened to go away for a month. What would happen then? That is why I would rather have a period in the aggregate.

MR SPEAKER:

Do I sense acquiescence by the Government if we forget the words which were added by the Hon and Learned Leader of the Opposition to his own amendment and we substitute the word "six" for "twelve"?

HON CHIEF MINISTER:

Yes, but not in the terms of the proposals which they did from the proposal of the Select Committee and of the Government. We may be prepared to agree to twelve months but not in pieces and not in these terms.

MR SPEAKER:

So what is the proposal?

HON CHIEF MINISTER:

Well, Sir, insofar as our amendments are concerned, wherever eighteen months

MR SPEAKER:

No, no, let there be no confusion because otherwise we will not know where we are. There is an amendment proposed by Mr Isola. It could be amended to bring it within acceptance by the Government. I would like to know how the Government wishes to amend it so that we can compromise.

HON ATTORNEY-GENERAL:

Mr Chairman, the amendment which the Government would be agreeable to would be a much shorter amendment altogether. In fact, to do it by way of an amendment to Mr Isola's amendment would be a lengthy way of doing it. Can I put it shortly? The amendment the Government would agree to would be simply to amend Clause 3(2) of the Bill to change eighteen months to twelve months.

MR SPEAKER:

From eighteen to twelve, is that right? Mr Isola would that be acceptable?

HON P J ISOLA:

No, Mr Chairman, because the trouble with the

MR SPEAKER:

Because otherwise he could withdraw his amendment, that is the only reason why I am asking.

HON P J ISOLA:

The trouble with the amendment, if the proposal is to leave it and just reduce eighteen to twelve, then I am faced with the problem of the actual section.

MR SPEAKER:

Fair enough, I will put your amendment and then another amendment can be proposed.

HON P J ISOLA:

I think that the question of saying that when there is no widow or widower, it should be a son or daughter, I think it is not right.

MR SPEAKER:

Fair enough, we are clear. I will put the question before the House.

HON P J ISOLA:

And there will be an amendment on this one, I am sure, one day.

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

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

The following Hon Members voted against:

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 Zammit
The Hon D Hull

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

MR SPEAKER:

We might then perhaps have an amendment from the Government benches.

HON CHIEF MINISTER:

I move now that subclause (2) of Clause 3 in the third line the figure "18" be substituted by the figure "12".

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

HON P J ISOLA:

Mr Chairman, I would like to ask on a purely drafting point on that subsection (2) where it says that the tenant's family is not defined and it is left to the general law.

HON ATTORNEY-GENERAL:

I can explain that, Mr Chairman. The tenant's family is not defined in England. Member of the family is not defined in England. It is defined in the sense that if there is a son or daughter of full age, then that will be an exhaustive definition, that is quite clear, that is the policy. But if there is not a son or daughter of full age, then we fall back on the ordinary meaning of the words "member of the tenant's family" and in that respect, once the second leg operates, once we get to that stage, "member of the tenant's family" simply means what it means in England and the law in England says that it is not defined specifically, the reason being that it considers it more desirable to rely on the ordinary meaning of the word allowed to be developed by case law and

it is approached in that way. The point of defining it here is in another context, it is simply to make the point that if there happens to be sons or daughters who are of age, then that is the exhaustive definition, if they are not, then we fall back on the wider definition.

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

MR SPEAKER:

Now we come to the next amendment to this Clause and we have got a clash, as I said before, in that Mr Isola has moved an amendment to the Clause as it stands now but it is going to be amended in any event, notice of which the Hon and Learned Attorney-General gave before. I would suggest that you do move your amendment first because I think you have told me that it makes no difference to your amendment in any event and then you will be amending a Clause which you know will still be in the Bill.

HON ATTORNEY-GENERAL:

If I may say so, Mr Chairman, I think that once the Government's amendment is put, it subsumes part of the Opposition's concern, and it also makes clearer what the Opposition is seeking to amend in principle as a result.

HON P J ISOLA:

We are in substantial disagreement on this.

MR SPEAKER:

Will you move your amendment to subclause (4) of Clause 3?

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 3 be amended by omitting subclause (4) and substituting the following subclause: "(4) On the death of the tenant, under a statutory tenancy (in this subsection called the "first successor") whose right to retain possession by virtue of Part III of this Ordinance arose on the death of the person who had been the tenant under a tenancy to which that part applied, if any son or daughter of the last mentioned tenant is alive and of full age, that son or daughter or (if more than one such son or daughter) the one of them determined or designated in the manner specified in subsection (3) shall be the second successor for the purposes of this section and the right to retain possession by virtue of Part III of this Ordinance shall pass to him". There is only one purpose to this amendment by the Government, Mr Chairman, I won't say it is a

purpose against my better judgement, I can say the reason we have adopted this, it is because the existing subclause (4) in the Bill is intended to secure the second succession and, in fact, this present replacement subclause is intended to do the same thing. But the replacement subclause follows, not literally, the English subclause on the second successor. I would like to be quite clear on the policy of the subclause. If I could run back over the whole gamut of the arrangement. I am a statutory tenant, if I die and I leave a widow, my widow becomes the statutory tenant. If I die and I leave no widow but sons or daughters who are over the age of 18, one of them becomes the statutory tenant. If I die and I leave neither a wife or children of age, a member of my family who has been living with me for twelve months becomes the statutory tenant. All that is the first succession. Once that member of the family dies, if I, the original tenant, have left children and those children have now become of age, under this subsection (4) it comes back to those children. That is the scheme of it, that is the intention of it. In other words, that is the second succession according to the policy behind the proposal.

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

HON P J ISOLA:

Mr Chairman, the qualification that is made in this section changes substantially the Gibraltar position from the United Kingdom position. It is just not justified in Gibraltar, much less justified than in the United Kingdom where you do not have uncles and aunts, people living together in large flats like you have in Gibraltar. This question of protecting a second generation just does not occur. It only protects the son or daughter, no other member of the family. In the United Kingdom, the members of the family are protected for a second generation. Let me give you a very simple example. Now I can give my example and the Hon Members opposite may reflect on the wisdom of having passed Section 3(2). Two sisters together, one of them marries the other is a spinster. The one who marries has one son. The husband dies, or somebody dies and it goes to the son. He dies, what happens to the spinster, out. She has lived all her life in that flat. Why should it be, Mr Chairman, why should a second succession be limited to sons or daughters, this is not the second succession. In Gibraltar, at the moment I think there are a great number of families that are not protected by the Landlord and Tenant existing Ordinance because the statutory tenants have died and nobody is protected, the trouble is that no one has bothered to go to court to start turfing them all out. But they will now, they will now with this Bill, if not they have to wait for the first lot to die. I am not sure if that is the position, I am taking the word of the Hon Member opposite. But, surely, Mr Chairman, it is wrong to limit the second succession to a

son or daughter because it is in the second succession, it is in the situation of a second succession that you can get people aged 75 and people aged 76 and 82 being thrown out. The Hon and Learned Chief Minister says no.

HON CHIEF MINISTER:

People do not throw out relatives because they are not statutory tenants.

HON P J ISOLA:

But it is not the people throwing out relatives, it is the landlords having the right to throw out. I am not talking about the tenants. My goodness, Mr Chairman, I hope Hon Members opposite have not got the wrong impression. I have never suggested, nor do I think it is possible in Gibraltar, where the family is still a strong unit, and hopefully it will stay that way despite the amendments to the Matrimonial Causes legislation. I am not thinking of a son turfing out an aunt, I am not thinking of that. The real problem we have to address ourselves to is that when it comes to the second generation you could get a situation where an elderly aunt or uncle or grandmother or grandfather could be turfed out because the protection is only limited to the son or daughter. Another example, Mr Chairman. Let us suppose there isn't a son or a daughter, what happens then? Let us suppose it is two sisters living together all their lives, a husband is brought into the house, he dies, they have got no children so his wife because the tenant. Then she dies, the other one gets thrown out. Is that what the Government proposes should be passed in this House? And that is a very big possibility in a lot of houses in Gibraltar, Mr Chairman, where there are no children. The protection will be limited to one generation and a woman who has lived all her life, or a man who has lived there all his life will be chucked out under the amendment proposed by the Hon and Learned Attorney-General today and supported by the Government. We cannot go along with that amendment at all, especially in Gibraltar.

HON CHIEF MINISTER:

What is the present protection now? Only one and it must be son or daughter living at the time. This idea of a member of the family never came into call.

HON P J ISOLA:

Mr Chairman, the protection now has not been altered before because there have not been cases and this amendment has come about because people were cottoning on to the fact that second generation was not protected and there were some cases in Courts of people being thrown out. That is why it has been brought in but is it fair that we should pass a law now,

a law that is going to be the law for the next decade? I doubt it very much, Mr Chairman, but anyway, that is said to be the law for the next decade, that you are going to get a situation where without children in the family elderly people are going to be thrown out.

MR SPEAKER:

I think you have made the point.

HON P J ISOLA:

Mr Chairman, I would ask the Government to reconsider that, to reconsider the fact that they are producing a situation by referring to the second transmission, limiting it directly to a son or daughter, they are putting a lot of elderly people at risk of being ejected under the law. I am going to suggest an amendment.

MR SPEAKER:

To what?

HON P J ISOLA:

To the amendment proposed by the Hon and Learned Attorney-General.

HON CHIEF MINISTER:

I think he had better do that in writing and we will look at it.

MR SPEAKER:

You can propose an amendment to the amendment, most certainly, but not an amendment to the original clause.

HON P J ISOLA:

I am going to propose an amendment to the amendment as follows:

- (a) delete the words "son or daughter of" and substitute "member of the family of the".
- (b) delete the words "son or daughter" in the seventh and eighth lines and substitute "member".
- (c) delete the words "such son or daughter" in the eighth line.

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

The House recessed at 7.45 pm.

The House resumed at 9.20 pm.

HON CHIEF MINISTER:

Mr Chairman, the two matters which were left over before we recessed should I think, beneficially, be left over till tomorrow morning. Not just the amendments themselves, I think we have virtually agreed to a formula which I think will probably meet the point which was being made earlier in respect of the question of the definition of family. The Attorney-General wants to make sure that it has no other repercussions. Equally, with the other question which he has now got the spirit of what we want, which is the question of the reconstruction, Section 51 of the present Ordinance. Both those matters I think could be safely left, the rest though a matter for discussion are not of such importance that we cannot make good progress on them, so I suggest that we leave Clause 3(4) for the moment and go on with the rest which are less controversial and see whether we can make progress. There are some amendments proposed by both sides but I do not think that the amendments proposed by the Leader of the Opposition are such that cannot be argued, I mean they are certainly not elaborate, it is a matter of looking at them and dealing with them as we go along.

MR SPEAKER:

We have got to come back to Clause 2, in any event.

HON A J HAYNES:

Perhaps the Chief Minister will state whether we will be considering tomorrow under Clause 3(4) the question of full age.

MR SPEAKER:

What?

HON A J HAYNES:

The question of full age which was raised by the Leader of the Opposition.

HON CHIEF MINISTER:

Yes, it is all being considered.

Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 4(4) be amended by omitting the words "or of the Fourth Schedule". I would like to say that I apologise for the quality of this amendment but I assure Members of the House that it is entirely consequential on the substantive amendments to the Fourth Schedule where all the transitional provisions are being proposed and it is simply unnecessary in subclause (4) to refer to the Fourth Schedule.

MR SPEAKER:

Does any Member wish to speak on the amendment to the Clause?

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

Clause 5

HON P J ISOLA:

Mr Chairman, I have the honour to move an amendment.

MR SPEAKER:

Yes, it is Clause 5(1).

HON CHIEF MINISTER:

We have an amendment on 5(2).

HON P J ISOLA:

5(1), I have the honour to move an amendment to that subclause. Add, after the word "Assessor", the following words: "and may in his discretion appoint more than one person to discharge the functions and powers of the Rent Assessor". The purpose of this amendment, Mr Chairman, is to make the provisions of this Ordinance that is proposed, and which we are voting against, anyway, but at least to make it more workable because I think in the context of the whole Ordinance it is absurd to think that a Rent Assessor is going to be able to deal with any sort of efficiency in the first year or two with all the problems that will be brought to him and, therefore, I do not see how anybody else can be appointed a Rent Assessor unless there is provision in the Ordinance for appointing an additional one.

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

HON ATTORNEY-GENERAL:

Mr Chairman, we think this is a good suggestion and proposal because clearly in the introductory stages of the new measure, there is likely to be an unusual amount of work to be got through. If I can pick up the words of the Hon and Learned Leader of the Opposition that we are talking about the first one or two years. We see this as a transitional provision, in other words, that there is a need to have a power to temporarily appoint a Rent Assessor and, in effect, my major amendment dated the 12th December contains such a provision on page 7. In the proposed new Fourth Schedule which will be the transitional provisions for this legislation and paragraph 6 of the Fourth Schedule does in fact provide for additional Rent Assessors on a temporary basis. While we agree in principle with the proposal made by the Opposition on this, I think it is a matter of presentation and as a matter of concept, can I say that I prefer to see it put as a temporary provision in the transitional provision.

HON P J ISOLA:

Mr Chairman, of course, this particular amendment I think only reached us this afternoon. I am not so sure whether it should be there because although everybody envisages that there will be a need for more than one Rent Assessor, I think the Hon and Learned Attorney-General is being optimistic if he thinks it is going to be only for a period of one or two years. I think it is going to be for a much longer period. Secondly, Mr Chairman, I think it should not be a transitional period because I think in practice, it may well

HON CHIEF MINISTER:

There is no period.

HON P J ISOLA:

Well, it is, it is in the transitional provision, it is being proposed in the transitional provision. I think, in practice, it may be found necessary to have on a permanent basis more than one person. I suspect that will be the position with one Rent Assessor sitting in the Supreme Court, advising the Judge, another one dealing with all the complaints of tenants, another one dealing with the Rent Tribunal. This legislation, Mr Chairman, is going to produce a lot of work and I think it should not be looked at as a transitional measure but one that might well be of a permanent nature so I think the proper place to put it is here but then of course if the Government does not want it there they have got the majority.

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

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull

The following Hon Member abstained:

The Hon J Bossano

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon B Traynor

The amendment was accordingly defeated.

MR SPEAKER:

Mr Attorney, you have got an amendment to 5(2). I would suggest that before it is proposed we might save ourselves a fair amount of time if we could find out whether you are ad idem on this one. There is very little difference between what one is suggesting and the other is suggesting.

403.

HON ATTORNEY-GENERAL:

If I can just explain my position, Mr Chairman. The title should be changed to the Director of Crown Lands because that is the current title for the office. I think the point of the amendment proposed by the Hon and Learned Leader of the Opposition is very clear, that the Director of Crown Lands is not to be saddled necessarily with the job of having to do a Rent Assessor's work, but I think there are two points to be taken into consideration. One is that we contemplate appointing a Rent Assessor at an early date and, secondly, in principle I would prefer to see the fallback appointment in the name of the Head of the Department.

MR SPEAKER:

All I want to find out is if there is a chance of a compromise, if not you will most certainly be entitled to move your amendment. Can you meet the Opposition's requirements on this one as stated in the amendment to be moved by Mr Isola?

HON ATTORNEY-GENERAL:

Not the sense of the amendment, Mr Chairman, but in practical terms by delegating into the Interpretation and General Clauses Ordinance if necessary.

MR SPEAKER:

It is suggested that by interpretation under the Interpretation and General Clauses Ordinance it would be tantamount to doing what you want. Is that correct?

HON ATTORNEY-GENERAL:

Of course, only if the need arises if there were a Rent Assessor from the outset the problem would not be there.

HON P J ISOLA:

Yes, but the section is there precisely in case there isn't one. So in the event of there not being one because nobody wants to take the job, for example, then the Director of Crown Lands would have to do it. My amendment again seeks to make the work easier because everybody knows jolly well that the Surveyor and Planning Secretary or the Director of Crown Lands would be completely incapable of doing one assessment, never mind a thousand so we put there, again to be helpful, such person or persons as the Director of Crown Lands shall designate in writing. If the Government does not think it is necessary, well, as long as we have made the point, that is it, they can reject it. We hope to see an active Director of Crown Lands do it.

404.

MR SPEAKER:

But there is a fundamental difference between your amendment and the Government's amendment to the extent that your amendment precludes the Director of Crown Lands from being the Assessor.

HON CHIEF MINISTER:

And in an emergency he might have to be.

HON ATTORNEY-GENERAL:

If I may say so again, Mr Chairman, that is so but we also understand the point which is being made.

HON P J ISOLA:

That he cannot do it.

HON ATTORNEY-GENERAL:

I understand the point that is being made. We are satisfied we can achieve the exact results under the existing law, anyway.

HON P J ISOLA:

Mr Chairman, I do not agree with the Hon and Learned Attorney-General because the Director of Crown Lands we know perfectly well cannot do it. What the amendment seeks to do is to allow him to appoint people, not just one, but more than one, to carry out this work. If in fact there is going to be a Rent Assessor and everything else, then Section 5(2) is superfluous, let us do away with it. But if it is intended to be there to fulfil a purpose, ie that nobody may want to take the job on, then I think it should be

MR SPEAKER:

It is obvious that you are not ad idem, would you then move your amendment?

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 5(2) be amended by omitting the words "Surveyor and Planning Secretary" and substituting the words "Director of Crown Lands". The point of the amendment is to refer to the current title of that office and I reiterate that if the Director of Crown Lands personally is too busy to do this he has power under the Interpretation and General Clauses Ordinance to delegate.

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

HON P J ISOLA:

He may have the power to delegate but it would be to one person and not more than one and what we are trying to seek here is that there should be more than one person because the flood of people who will be affected will be so great, the applications will be so many, that the Director of Crown Lands, or any substitute he appoints, will be quite incapable of dealing with them and that to me seems to be the reality. I would propose that the amendment proposed by the Hon and Learned Attorney-General be further amended by inserting before the words "Director of Crown Lands" the words "such person or persons as" and after the words "Director of Crown Lands" the words "shall designate in writing".

Mr Speaker put the question in the terms of the Hon P J Isola's amendment to the 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 Loddó
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 following Hon Member was absent from the Chamber:

The Hon B Traynor

The Hon P J Isola's amendment to the amendment was accordingly defeated.

Mr Speaker then put the question in the terms of the Hon the Attorney-General's amendment 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 Zammitt
The Hon D Hull

The following Hon Members voted against:

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 were absent from the Chamber:

The Hon I Abecasis
The Hon B Traynor

The Hon Attorney-General's amendment was accordingly passed.

Clause 5, as amended, stood part of the Bill.

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

Clause 7

HON P J ISOLA:

I beg to move that Clause 7(2)(c) be amended by the substitution of the word "three" for the word "five".

MR. SPEAKER:

That is it?

HON P J ISOLA:

In support of the amendment I ought to mention that I am also suggesting an amendment in a further clause that the people in the Tribunal be paid because no one is going to do this job for nothing unless they are all civil servants and paid with parity. The reason why I say that, Mr Chairman, is because you will see that under sub-paragraph (5) the quorum is stated to be three for a sitting of the Tribunal.

MR SPEAKER:

We are going to get confused. With respect, we could have separate votes on each amendment.

HON P J ISOLA:

Do they agree? Well, then I do not say anything more.

MR SPEAKER:-

Well, what is the Government agreeing to? That is what I want to know. To 7(2)(c) or to the two amendments?

HON CHIEF MINISTER:

No, 7(2)(c) only.

MR SPEAKER:

If the Attorney-General wishes to say why we will be delighted to hear him.

HON ATTORNEY-GENERAL:

Mr Chairman, the original idea of having a panel of seven was that in the past there were difficulties, certainly I remember in 1979 there were difficulties in making up a sufficient quorum and the idea was that we would have a body of seven people to choose from, including either the Chairman or the Deputy Chairman, but even five I think is an improvement on the present situation. We have already widened it by not limiting it to public servants, whereas I think a lawyer under the present law must be an official. I agree it does look a bit odd to have a panel of seven and only have to draw on three of them which is why I have myself proposed this amendment to underline the nature of the panel.

Mr Speaker then put the question in the terms of the Hon P J Isola's amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON P J ISOLA:

Mr Chairman, I now propose an amendment to Clause 7(3). I propose that Clause 7(3) be amended by the addition of the words at the end of that Clause "and shall be entitled to such remuneration as the Governor shall determine". The purpose of producing this amendment is merely to express the view that this Rent Tribunal as envisaged by the Ordinance is going to be a very busy Tribunal. It is an on-going Tribunal, and if the Government and the litigants and Action for Housing and the landlords and the Rent Assessor are going to

expect the Tribunal to sit as often as may be necessary, it must not be on a voluntary basis. I don't know who it is proposed to appoint as members of the Rent Tribunal but if, for example, the Stipendiary Magistrate is appointed as Chairman, that is fine, but the Deputy Chairman also has to be a legally qualified person and I imagine he would have to be paid if he is not a civil servant and members of the Tribunal, I don't know what plans Government have for the composition of the Tribunal but certainly if it is people.... I don't know whether the Minister for Economic Development likes sitting after nine o'clock, he seems very Bolshy tonight, Mr Chairman, but, anyway, assuming that the three other persons are not going to be lawyers, but are going to be public

HON A J CANEPA:

Mr Chairman, what I object to by being here tonight is that I am just doing work for the benefit of the Hon Members and yours and the Chief Minister's legal profession. All for your benefit. You all have an interest to declare.

HON P J ISOLA:

Well, Mr Chairman, if they will bring legislation that is going to produce three times the litigation that exists today, they only have themselves to blame. I don't know what the comprehensive Tribunal is going to be but if there are going to be people from the ranks of the public, a business man or a man representing workers, or a man who represents

MR SPEAKER:

It does not matter.

HON P J ISOLA:

They should be remunerated like the Members of the House are remunerated, the same way that the Chairman of GEC should be remunerated and the Chairman of the Steering Committee is remunerated.

HON CHIEF MINISTER:

I hope the Hon Member will accept to substitute the word "determine" by "prescribe". It is more in accordance with legal jargon.

MR SPEAKER:

Do away with the word "determine" and insert "prescribe".

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

Mr Speaker then put the question in the terms of the Hon P J Isola's amendment, as amended; which was resolved in the affirmative and the amendment was accordingly passed.

Clause 7, as amended, was agreed to and stood part of the Bill.

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

Clause 10

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 10 be amended in paragraphs (a) and (b), and in the first place where it appears in paragraph (c), by omitting the word "dwelling-house" and substituting the word "house". I preferred my own language when I started but I think that in view of the comments which have been made I will play safe and follow the existing laws.

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

HON P J ISOLA:

I cannot quite understand. Dwelling-house is the expression used right through the Ordinance. Why is it just "house" in this Clause?

HON ATTORNEY-GENERAL:

Except in one place. In the existing Ordinance, Mr Chairman, under the English legislation in this particular place, the word "house" is used where I propose that it should be, too. If I can read it just to get the sense of it. "Subject to the provisions of this Ordinance this part shall apply to dwelling-houses but only to the following extent, namely, it should apply to every house which has been erected on or before the 1st day of January, it shall apply that such a house whenever it is so let but only if it is let as a separate dwelling, it shall apply to every such part of a house, it would be part of such a house because although it is a separate dwelling, it is as if that part were a separate dwelling-house". I think that matches the English provisions.

HON P J ISOLA:

It may match the English Act but on the other hand the word "dwelling-house", for example, appears in Clause 9, it appears all over the Ordinance. I am very, very shy about this one.

HON ATTORNEY-GENERAL:

I really intended to leave it as it is, anyway. I am happy to have it as it is in the Bill and I am also happy to change it. The distinction occurs only in one place in the Bill and I do not think it is really a significant distinction. Clause 5 of the Ordinance, the existing Ordinance, says: "Subject to the provisions of this Ordinance, this part shall apply to a house or a part of a house which is a separate dwelling, with a rateable value of so much, with the annual amount of rent so much, with the rateable value so much. And every such house or part of a house shall be deemed to be a dwelling-house to which this part applies", and thereafter and, indeed, beforehand, the whole of the Ordinance talks about a dwelling-house.

MR SPEAKER:

Do you wish to withdraw this amendment?

HON ATTORNEY-GENERAL:

Yes, I will.

The Hon the Attorney-General's amendment was withdrawn with the leave of the House.

HON ATTORNEY-GENERAL:

My second amendment I do wish to pursue, Mr Chairman. To add after paragraph (c) of Clause 10(1), the words "that every such dwelling-house or part of a dwelling-house shall be deemed to be a dwelling-house to which this part applies". Those words appear in the existing legislation and I do think that they should be brought forward to this paragraph and put there.

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

Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11

HON ATTORNEY-GENERAL:

I move that Clause 11(1) be amended by omitting the word "The" and substituting the words "Except where otherwise provided in this Ordinance, the". Mr Chairman, I explained when amending the definition of statutory rent in Clause 2, the reasons for that and this is really consequential upon that. In other words, Clause 11(1) lays down the practice in statutory rents but there are provisions throughout the Ordinance whereby that can be varied one way or another and I think those words of qualification which I am now proposing should be there.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I propose that Clause 11(2)(b) be amended by inserting after the words "dwelling-house" the words "(other than works described in subsection (3) of Section 13)". Subsection (3) of Section 13 will, when amended, refer to work done pursuant to notices served under the Public Health Ordinance.

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

HON P J ISOLA:

I now have another amendment.

MR SPEAKER:

You now have another amendment to Clause 11(2)(b).

HON P J ISOLA:

That is that the words: "In the circumstances specified in Section 19" be deleted and insert the word "substantial" immediately before the word "repairs" in the second line. That really comes in before the amendment of the Hon and Learned Attorney-General.

MR SPEAKER:

It makes no difference in any manner or form because one amendment does not affect the other.

HON P J ISOLA:

No, it does not. But I think one amendment is inconsistent unless the other one takes place.

MR SPEAKER:

Why?

HON P J ISOLA:

Because the second one specified in Section 19 is a Court order to carry out repairs.

MR SPEAKER:

Mr Isola, you can proceed with your amendment. Do you wish to speak in favour of it?

HON P J ISOLA:

Mr Chairman, the purpose of this amendment is really to cut the work of the Rent Assessor a bit. Landlords should know that there have to be substantial repairs carried out. It is no use going to the Rent Assessor because you have painted one side of a room or anything like that. And then taking away the question of pursuant to a Court Order it should be substantial repairs on or before the 1st January, 1986. This would seem to me to be the intent of the Committee.

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

Clause 11, as amended, was agreed to and stood part of the Bill.

Clause 12 was agreed to and stood part of the Bill.

Clause 13

HON P J ISOLA:

I have an amendment to that, Mr Chairman, and that is in Clause 13(1). To insert the word "substantial" immediately after the word "incurred" in the fifth line. Again, this is to prevent application except in circumstances that are justified. Minor expenditure obviously does not qualify for an increased rent but you do not want the Rent Assessor being plagued with lots of applications that he is not going to agree.

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

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

The following Hon Members voted against:

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 Zammit
The Hon D Hull

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon E Traynor

The amendment was accordingly defeated.

MR SPEAKER:

There is a further amendment to be moved to this Clause by the Hon and Learned Attorney-General to Clause 13(3).

HON ATTORNEY-GENERAL:

Yes, Mr Chairman, I move that Clause 13(3) be omitted and the following subclause substituted: "(3) Where the works have been carried out by the landlord in consequence of a notice served on him under the Public Health Ordinance on the ground that the dwelling-house is not in all respects reasonably fit for human habitation, or that its condition constitutes a nuisance, the Rent Assessor shall not under subsection (1) increase the statutory rent in respect of such expenditure unless, on application by the landlord, the Rent Assessor is satisfied - (a) that the condition of the dwelling-house is due wholly or partly to tenants neglect, default or breach of express agreement or (b) that for any other reason it is equitable that such an increase should be made". Mr Chairman, that follows the existing law, it is to be found in Sections 6 and 8(a) of the present Ordinance, more particularly in the second proviso to it, and the reason it is necessary to change it back to that is that when Clause 13(3) of the Bill was drafted the flavour of the second proviso to Section 8(a) was mistranslated really because of the way the proviso was expressed but I have looked through them again and what I am now proposing is the way it should read.

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

HON G T RESTANO:

I just have a question to ask on this one, Mr Chairman, it is the adjustment for improvement but can the Hon and Learned Attorney-General say if there are any adjustments where the tenant himself has made improvements following, shall we say, a lack of improvements carried out by the landlord and which have imposed upon the tenant the necessity to repaint the interior and so on, and is there nothing in the Ordinance to adjust the tenancy and the rent where the tenant has in fact had, through no fault of his own, to spend money in improving his home?

HON ATTORNEY-GENERAL:

There is no such provision. There is a provision which is similar to this but lacks the element of compulsion, that is in the First Schedule, that the tenant takes it on himself to do the bathroom, he gets the benefit of that for a certain period but that is not quite the situation that the Hon Member is thinking of. There is no general principle that if a tenant is obliged to do work he can recover the costs of that by way of a reduction.

HON G T RESTANO:

May I then ask is this not somewhat loaded on the side of the landlord?

MR SPEAKER:

No, with due respect, we are now going into the general principles.

HON G T RESTANO:

In this particular Clause there is provision for the adjustment and increase in rent that the landlord can impose on the tenant

MR SPEAKER:

On the contrary, this section limits the right of the landlord to have an increase of rent because he has been compelled to carry out repairs under a Nuisance Order.

HON G T RESTANO:

Yes, but if that Nuisance Order has resulted in the landlord carrying out repairs and necessitating the tenants

MR SPEAKER:

What I am saying is that that is a general principle which should have been discussed on the Second Reading and perhaps a new Clause brought in for the purposes of providing for it but it does not come under this Clause.

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

Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14

HON P J ISOLA:

Mr Chairman, I have an amendment to make here and it is a very simple one and that is to delete the figure "50" and substitute it by the figure "25". I don't know whether it is a Select Committee recommendation or what but I find, Mr Chairman, the provisions of this section as well as Clause 25 for eviction of a tenant who sublets is particularly vicious and I will say why. The question of subletting accommodation was one that was fully recognised in the Landlord and Tenant Ordinance of 1959. At that time there was a tremendous amount of subletting going on but it was the only means of livelihood of the people and the law reserved the right to sublet. We have gone a long way since 1959 and I think that the number of sublets that exist today must be very few. I also believe that in most cases they are cases of elderly people who cannot make ends meet, who may or may not be getting anything, who sublet. Mr Chairman, nobody can like having strangers in their home. If people sublet it is because they have a need to sublet. They need the money, Mr Chairman, they may need the money. Does the Hon Member know how much it costs to keep body and soul together for older people? Heating, telephone charges, electricity, water. It is a lot of money. A person who sublets, in most cases of subletting the person who is subletting, is paying for the electricity of the sub-tenant. He is paying, possibly, for the water the sub-tenant uses in washing himself and drinking and cooking. And when you do a sublet, all these extras go in. And to say that the landlord should pay 50% of that, in my mind, is oppressive. I do not mind saying it, I think it is oppressive. I am sure that the Select Committee agreed to this figure because they were not aware of, or they were not made aware of the fact of what a subletting is, and I take a subletting as a subletting in somebody's home. Where people live in a home, an old couple, people who have not got a job or whatever, and they have to take in what they call paying guests. I do not think anybody does that unless they have to. To take 50% of the rent they collect is inordinately high bearing in mind that they have to pay water, electricity.

Say 50% if you like, after deduction of the cost of water, electricity and so forth, and you may find it is a lot less than the 25% that I am suggesting. I think that the House should show a bit of compassion here and understanding, understanding of what is involved in the majority of cases of subletting. No one sublets just to make money, Mr Chairman. People sublet part of their homes because they have a need for that money and I commend the amendment to the House.

HON CHIEF MINISTER:

There is a difficulty, Mr Chairman, about putting in except electricity and so on (a) because in some cases there may be separate electricity or water provisions and then it would not be possible to make the inclusion, the subtenant would not be expected to pay for that. I would like a division on this one.

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

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

Clause 14 stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, before I move my amendments. The second of these amendments is closely tied up with a matter we have already agreed to leave for the moment until tomorrow which is the amendment to Clauses 3 and 4. So I will propose not to deal with this.

MR SPEAKER:

To leave Clause 15 in abeyance.

HON ATTORNEY-GENERAL:

Well, you may prefer to leave the whole Clause in abeyance.

MR SPEAKER:

Oh, yes, I would rather do that so we will not deal with Clause 15, which will be left in abeyance until tomorrow and we will deal with all relevant amendments then. We go on to Clause 16.

Clause 16

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 16(3) be amended by omitting the figures "£100" and substituting "£1,000". Mr Chairman, this is the first of a number of amendments all of which are intended to increase the monetary fines to which a landlord is liable for infringements under the Ordinance. This particular one is an increase from £100 to £1,000. I think I am correct in saying that they are all increases of this order.

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

HON P J ISOLA:

Mr Chairman, this question of increasing the fines from £100 to £1,000. In some cases they are justified, in others they are plainly not and it seems to me odd that we should introduce fines of £1,000 here. For example, the Control of Employment Ordinance is £300 or £500. I think there should be some uniformity in punishment. I think on this particular case of the Sinking Fund, the proposed amendment to £1,000 is possibly justified on the grounds that if the landlord does not put money into the Sinking Fund or withdraws money he should not, if something really goes wrong with the property,

especially in properties outside Main Street, it is quite irrelevant, really, to Main Street but, anyway, properties outside Main Street, there might not be the money there to do the work and possibly in this case the fine of £1,000 might be justified. I personally feel, it is a purely personal opinion, that the figure of £1,000 being put by the Government on a number of these Clauses is really to disguise the tendencies in this Bill to protect the landlord rather more than the tenant and this is meant to redress the balance and I personally feel that a fine of £1,000 in most of the cases just is not justified. In this case, I cannot see any Court that has got Magistrates who are sensible, imposing fines of this magnitude but still, if the House wants to do that they can do it. In this case I do not mind, in others I think it is quite disproportionate and the fine is being put purely to hide the tendencies that the Bill really has.

HON ATTORNEY-GENERAL:

Perhaps I may reply, Mr Chairman. That is not really the purpose of the increases in the fines but can I just say that this Ordinance was enacted in 1959, which is now over 24 years ago. The fines were £100 then but they are going up £10 in 24 years.

Mr Speaker put the question and on a vote being taken the following Hon 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 Hon D Hull

The following Hon Members abstained:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon B Traynor

The amendment was accordingly passed.

Clause 16, as amended, stood part of the Bill.

419.

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by adding the following subclause: "(3) Notwithstanding subsection (1), where an increase is permitted under Section 12(1) (which relates to rates) only 2 weeks' notice of the landlord's intention shall be required". This does bring forward a provision of the existing Ordinance and I think I am correct in saying that Clause 12(1) of the Bill deals with the case where a landlord may claim an increase in respect of a communal services tenement. Under existing law he is only required to give 2 weeks' notice instead of the usual notice.

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

HON P J ISOLA:

Mr Chairman, the only comment I make on this is the comment I made under Section 14, how tilted this is in relation to subletting. No notice is required for that, increases shall be due and recoverable as from the date of subletting but in other cases three month's notice has to be given but subletting you knock them straightaway. Fair enough, that shows the colour.

Mr Speaker put the question and on a vote being taken the following Hon 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 Hon D Hull

The following Hon Members abstained:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon B Traynor

The amendment was accordingly passed.

Clause 17, as amended, stood part of the Bill.

420.

Clause 18

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 18(9) be amended by omitting "Fourth" and substituting "Third". This is something that has crept forward from the previous draft, it is correctly a reference to the Third Schedule and not the Fourth Schedule.

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

Clause 18, as amended, was agreed to and stood part of the Bill.

Clause 19

HON P J ISOLA:

I have the honour to move the amendment standing in my name and that is that Clause 19(1)(c) be amended by deleting the word "alternative" in the first line and substituting the word "temporary" and inserting immediately after the word "tenant" in the second line, the words "at a rent not in excess of that being currently paid by the tenant". I think it is inappropriate to use the word alternative because suitable alternative accommodation has its technical interpretation and I think what this section seeks to do is to enable the Court to make an order to get a tenant out of premises temporarily whilst repairs are carried out and, equally, the temporary accommodation should not be available at a more expensive rent. I so move.

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

Clause 19, as amended, was agreed to and stood part of the Bill.

Clause 20

HON A J HAYNES:

Mr Chairman, I have a comment on Clause 20.

MR SPEAKER:

Most certainly.

HON A J HAYNES:

What does it mean "not exceeding three months", that you can only get three months rent or what? I do not understand how it will operate. Can this be explained to me? It is a departure from normal legal principles.

MR SPEAKER:

Acceptance of rent vitiates a notice to quit, by legislation it is being said that if you accept rent for the first three months the notice to quit will not be effective.

HON A J HAYNES:

Surely it should be the other way round. You show that you are not accepting a renewed tenancy by not accepting rent initially and thereafter you can take it as mean profit.

HON CHIEF MINISTER:

No, it is the other way about.

HON A J HAYNES:

I know, but it seems to me to be the wrong way round. Is there any legal precedent from which this is taken?

HON ATTORNEY-GENERAL:

Mr Chairman, I do not think this is something sui generis, I think this is something that was brought forward from the previous law. I would like the opportunity to check it.

Clause 20 was agreed to and stood part of the Bill.

Clauses 21 to 24 were agreed to and stood part of the Bill.

Clause 25

HON P J ISOLA:

Under that Clause it appears that if a tenant sublets part of his dwelling-house and that he charges rent for subletting exceeding the rent recoverable he can be chucked out. It seems to me to be very odd that a tenant sublets, alright, and he pays the penalty. Why should he not just be prosecuted? Why shouldn't he just commit an offence? Why should it not be the same as if the landlord charges excessive rent for accommodation? He could be fined so why must a tenant who sublets be thrown out of his accommodation? It is, I think, very unfair. What I think should be there

is a section to the effect that if a tenant sublets and charges more for the subletting, let him be liable to a fine of £1,000. Why should he be treated differently to a landlord who overcharges? This is persecution of the tenant who sublets and if one looks at the people who sublet, one will find that they are all very deserving cases and people do it because they need the money, or a lot of them are.

HON CHIEF MINISTER:

This is taken from Section 53 of the Ordinance.

HON P J ISOLA:

It seems to me absolutely wrong. If the House believes that because a person overcharges for subletting he should be thrown out and a landlord who overcharges all he gets is a fine, I think that is wrong.

HON CHIEF MINISTER:

But like so many other provisions in the Ordinance it is up to the Courts to decide whether it is equitable or not.

HON P J ISOLA:

Yes, Mr Chairman, it may be up to the Court to decide but you may get a hanging Judge. You do get Judges who are very firm and you get Judges who are very soft and if it is a Judge who is stern he throws the family out of the house, or throws the person out of the house. I would like this section to be left over so that I can draft the appropriate amendment to give effect to what I feel should be done in a case like this, if the House agrees. So far everything that we have left over has been at the request of the Government, not on our side. I am requesting that this be left over because I think that it is basically wrong and unjust that a tenant who sublets at a rent that he should not should put his home at risk, whereas a landlord who lets at an excessive rent all he gets is a fine.

HON CHIEF MINISTER:

Well, we will leave it until tomorrow.

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

Clause 27

MR SPEAKER:

There is only one amendment to Clause 27.

HON P J ISOLA:

Yes, but I did not amend because I was told amendments were going to be brought.

MR SPEAKER:

Are you disappointed?

HON P J ISOLA:

Well, of course, I am. I thought amendments were going to be brought. I was told they were going to be brought to (b) and (c) because I have only amended 27(4)(a). I move that after the word "dwelling-house" the following words should be inserted "(but not its contents)".

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

HON P J ISOLA:

Mr Chairman, I made a point in the Second Reading on (b) and (c) that there was a difference between landlord's fixtures and tenant's fixtures, and that it would seem to me that there is no reason why the landlord should be liable to maintain tenant's fixtures and there is no reason why the tenant should be liable to maintain landlord's fixtures. I got the impression that amendments were going to be brought to those two sections to clarify but they have not been brought. I would move under sub-paragraph (b) the insertion before the word "electrical" and after the word "all", "to maintain all landlord's electrical fixtures" and in (c) the tenant be liable to maintain "all tenant's interior fixtures and fittings" and let the law decide which is whose.

MR SPEAKER:

Mr Isola let me make sure that I know what you want. You want to amend sub-clause (b) by the insertion of the word "landlord" between the words "or" and "electrical". Is that right?

HON P J ISOLA:

All electrical installations.

MR SPEAKER:

All landlord's electrical fixtures in good repair. Is that it?

HON P J ISOLA:

Well, I do not mind "all electrical installations".

MR SPEAKER:

You do not need the word "landlord".

HON P J ISOLA:

Change the word "fixtures" to the word "installations".

HON CHIEF MINISTER:

And then the other one follows with your amendment.

HON P J ISOLA:

Well, the only trouble is that there are a number of interior fixtures and fittings.

MR SPEAKER:

Well, may I suggest that perhaps the way to put it right is to include the word "tenants" between the word "interior" and "fixtures".

HON ATTORNEY-GENERAL:

I am just speaking in a purely technical manner of course. I do not agree with the proposal, Mr Chairman, and I will explain why. We are talking about fixtures because the policy of this section as it stands, this clause as it stands, is that notwithstanding the ordinary law, as to who

MR SPEAKER:

Are you talking about sub-clause (b) now?

HON CHIEF MINISTER:

Sub-clauses (b) and (c).

HON ATTORNEY-GENERAL:

Both, 27(4)(b) and (c). The normal law is of course, as has been said, that fixtures are the responsibility of the landlord, normally. The point of this provision, as I understand it, this is the way I have drafted it, is to say if the fixture is an electrical fixture then under this Ordinance the landlord would be responsible for it. If that is not the policy then it can be changed but let me explain this, too,

that I do not think the word "installation" is necessarily good enough because that may or not may include a fixture and if it does not include a fixture, if it starts to include something less than a fixture we may be interfering with the tenant's own property so I think care is needed. This is purely a working suggestion but I think that if the intention is that as a matter of policy one wants to place liability on the landlord for certain kinds of fixtures, namely, electrical fixtures, the use of that term is right. If, on the other hand, one wants to place a liability that he would not otherwise have on the tenant for certain kinds of fixtures, namely, other interior fixtures, well, it is right as it stands. If that is not the desired policy of course then it is a different matter.

HON CHIEF MINISTER:

I think the point mainly is, and this is one on which I would like guidance from the Attorney-General, if what he is saying is that fixtures and fittings have got a special meaning in law to what is landlord's fixtures and tenant's fixtures, then we do not have to describe anything.

HON ATTORNEY-GENERAL:

Mr Chairman, the danger, I think, is that one wants to be careful that the landlord is not burdened with responsibility for things which as a matter of ordinary meaning may be installations. For example, is a television set an installation?

MR SPEAKER:

I think that when one speaks of an electrical installation in a dwelling-house, one is talking about the conduits that gives electricity. The fixtures and the fittings are completely different.

HON CHIEF MINISTER:

I do not know whether it would be any help if it says such fixtures as the electricity authority may require because they are the ones who say that certain points are low, other points should be strengthened. In fact, only yesterday I dealt with a case in which there was a cut out in the house and a tenant complained about it and when they went they found that it was because the tenant had overloaded the installation and yet it was the responsibility, certainly in this case, of the landlord to put it right.

HON A T LODDO:

Mr Chairman, perhaps the word that we should be using is the wiring, because I think that we are in fact using the Spanish word, or rather thinking in terms of the Spanish word. The installation, the whole wiring of the installation, I think that is what we had in mind in the Select Committee. The whole wiring of the flat, not the installation such as television sets or radios, or whatever.

MR SPEAKER:

Anyway, we must take a decision on this one.

HON W T SCOTT:

Mr Chairman, in my experience, the electrical installation of any building is that which forms part of the permanent structure. Any appliance which is connected to the building, even to the extent of a water heater, are normally the responsibility of the tenant. But there is a peculiarity because although the electrical installations, as I understand the law up to the moment of passing on to the tenant, is the responsibility of the landlord, yes, it is the tenant who is the consumer not the landlord and I have always felt that there was a little bit of grey herring involved between the one and the other.

HON M K FEATHERSTONE:

The intention of the Select Committee was the installation as suggested by the Hon Mr Scott which would be the main fuse unit, all the wiring, the plugs, or what have you that are fixtures and anything that is put on to those things is classified as the tenant's even though it is a fixture insofar as it is screwed on to the wall or what have you.

HON ATTORNEY-GENERAL:

I would recommend the phrase of "electrical supply installation".

HON CHIEF MINISTER:

Under the old law unless otherwise provided, the tenant is responsible for the renewal or repairs to broken or defective switches, plugs, lamp holders and fuses. The rest is the landlord's. Is there anything wrong with using the words "electrical installation"?

HON W T SCOTT:

No, not at all, the only thing is so long as it is defined in the sense of permanent and non-permanent fixtures, like the example of the water heater and cookers and perhaps television sets and any other electrical appliances in use which do not form part of the electrical installation.

MR SPEAKER:

Perhaps the answer is to say "permanent electrical installation" and if that solves the problems of (b), what about (c)?

HON ATTORNEY-GENERAL:

I would not propose to make any amendment to that.

MR SPEAKER:

Because one excludes the other, in other words.

HON ATTORNEY-GENERAL:

I think it would be safer to leave in the words "subject to paragraph (b)". I therefore move in Clause 27(4)(b) to omit "electrical fixtures" and substitute "permanent electrical installation".

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

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

Clause 28

HON CHIEF MINISTER:

Here I am quite happy to reduce the proposed increase from £1,000 to £500. I think that £500 would be quite enough.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 28 be amended by omitting the words "one hundred pounds" and substituting the words "five hundred pounds".

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

HON P J ISOLA:

I think that the fine should have stayed at £100.

MR SPEAKER:

Yes, that you have already said before.

HON P J ISOLA:

There is a Rent Assessor, there is a Rent Tribunal, there is Action for Housing, it seems to me a question of measurement. If the landlord makes a mistake there is a fine of £500, it seems to me to be persecution. I want to put an amendment there and that is the one I have given notice of, to put the words after "supplying" in the fifth line the words "without reasonable excuse". Since the landlord can be made liable to a fine of £500 for not giving the tenant the correct rent which the tenant can easily find out himself by measuring, it is a question of measurement, it seems to me that a material particular would be the wrong rent and it seems to me that if there has been a genuine mistake made in measurement or anything else, in other words, if there is a reasonable excuse for the wrong statement, in the same way as if he has got reasonable excuse for not giving a statement within fourteen days, equally, if he supplies a statement which is false in any material particular.

HON CHIEF MINISTER:

"False" is not "incorrect".

HON ATTORNEY-GENERAL:

Surely, the words "without reasonable excuse" can avert problems?

HON P J ISOLA:

Well, if they do I would withdraw my amendment but I do not think it does, does it? It says here "and if without reasonable excuse he fails within 14 days to do so, or supplies a statement which is false".

HON CHIEF MINISTER:

You take away one and you leave the other.

HON P J ISOLA:

Does the Hon and Learned Attorney-General feel that it covers both?

HON ATTORNEY-GENERAL:

I feel it does because of the fact that it comes first and this is a penal clause and can surely be construed that way.

HON P J ISOLA:

I beg to move that Clause 28 be amended by inserting the word "either" between the words "he" and "fails" in the fifth line thereof.

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

Clause 28, as amended, was agreed to and stood part of the Bill.

Clause 29

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 29, sub-clause (4), be amended by omitting the expression "£100" and substituting the expression "£500". This is the penalty to which a person is liable for failing to keep a rent book. Clearly it has a close relationship to the preceding penalties for failing to state the statutory rent and it would be logical that it should be the same. That is the extension of the amendment.

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

HON P J ISOLA:

I do not think this does what the Attorney-General says it does. The penalty under Clause 4 is not for not keeping a rent book, the penalty is "if any person in any rent book makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum which by virtue of this part is irrecoverable, or where any such entry has been made by or on behalf of any landlord if the landlord on being requested by or on behalf of the tenant so to do, refuses or neglects to cause the entry to be deleted within seven days". It has nothing to do with not keeping a rent book.

HON ATTORNEY-GENERAL:

It is related to the keeping of a rent book. It is the second of two offences, the first offence has a penalty of a weekly fine of £10 for failing to keep a rent book but this is ancillary.

HON P J ISOLA:

Clause 5 needs an amendment, doesn't it? It says it should be a defence to a charge under subsection 4 that the defendant believed bona fide that the rent was irrecoverable. Can I ask the Hon and Learned Attorney-General why is it necessary to make this a criminal offence? If somebody puts in a rent book rent as being due that is irrecoverable and the rent is irrecoverable, what does it matter what is put in the rent book if it is irrecoverable? I just cannot see the reason for making this a criminal offence.

HON ATTORNEY-GENERAL:

This comes from the existing law and I as I see the scheme of this Clause, subclause (1) says you have to keep a rent book, you have to give it to the tenant and you have to give a copy to the Rent Assessor if he wants to see it. Subclause (2) says that you have got to keep it up to date, subclause (3) says that if you do not comply with this Clause, you are liable to a weekly penalty, a continuing penalty, in other words, the weekly penalty is £10 so after 50 weeks it will cost you £500. And Clause 4 goes further and says that if you purport to show a tenant as owing rent which is in fact irrecoverable or you do not correct that entry, you commit an offence because obviously otherwise some tenants might see the rent book with this allegedly owing rent in it, they may or may not know it is irrecoverable and they could be misled by it, so the point in subclause (4) is surely to carry the matter into better effect by saying not only must you keep a rent book but you must take care not to mislead a tenant into thinking that he owes rent when he doesn't. And, of course, because there could be a bona fide mistake by a landlord, subclause (5) says that if you charge and you can show that the mistake was made in good faith then you will not be liable but I think subclause (4) is part of the scheme of it.

HON P J ISOLA:

But then subsection (5) says that it should be a defence to a charge that the defendant, that is, the landlord, believed bona fide that the rent was irrecoverable.

HON ATTORNEY-GENERAL:

Was recoverable.

HON P J ISOLA:

Ah, I see, so that has got to be amended.

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

MR SPEAKER:

Perhaps you will bring a consequential amendment to subclause (5), Mr Attorney, to do away with the word "irrecoverable" and substitute it by the word "recoverable".

HON ATTORNEY-GENERAL:

If I could move, Mr Chairman, that in subclause (5) the word "irrecoverable" be omitted and the word "recoverable" substituted.

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

Clause 29, as amended, was agreed to and stood part of the Bill.

Clause 30

HON P J ISOLA:

Mr Chairman, I have an amendment to propose to Clause 30(1), to insert immediately after the word "contract" in the first line, the words "other than a contract or tenancy to which Section 15 of this Ordinance applies". The reasons for this amendment is that Section 15, Clause 15 of the Bill

MR SPEAKER:

With respect, Clause 15 of the Bill has not been considered in Committee as yet.

HON P J ISOLA:

Well, Mr Chairman, I presume that it will appear in some form or other and Clause 15 re-introduces a 7A tenancy, and if a 7A tenancy is being agreed it seems to me that there should not be in Section 13 the right to change it when it has been agreed through the Rent Assessor. I think that amendment is necessary.

HON ATTORNEY-GENERAL:

Mr Chairman, I do not think this is part of the present law in relation to Section 7A agreements and I do not really see what harm it does not to refer to it in this Clause because after all, presumably if anyone thought there was some purpose in the applying to the Rent Tribunal when I cannot really say there is, surely the Rent Tribunal would do nothing more than reiterate what has already been agreed between the parties.

HON P J ISOLA:

Surely, Mr Chairman, that is not right and I say that Section 7A because it is the same thing in a different language in Section 15, the purpose of it is to allow a flat that is vacant to be let at a new rent. If that is going to be made firstly to the Rent Tribunal you get the situation where a landlord and tenant both agree a new rent, in they go, and then they make an application made to the Rent Tribunal to change it. It seems to me that is not the spirit of the new Section 15 and therefore there is a need to exclude from this section such a tenancy from going to the Rent Tribunal either for increasing or decreasing the rent because there has been a 7A tenancy in Section 15. That is why I put "other than a contract or tenancy to which Section 15 of this Ordinance applies".

MR SPEAKER:

What you are suggesting is that a 7A agreement should not be subject to reassessment by the Rent Tribunal.

HON CHIEF MINISTER:

Didn't we say we had left 15?

MR SPEAKER:

We have left Clause 15 for a later stage.

HON CHIEF MINISTER:

I think the Attorney-General has got some reservations, I imagine what it is that there is no equivalent exclusion now in respect of the possibility of other rents going up to 7A level.

MR SPEAKER:

Shall we leave Clause 30?

HON P J ISOLA:

Alright, we will leave it.

Clause 31 was agreed to and stood part of the Bill.

Clause 32

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 32(1) be amended by omitting the figures "1964" and substituting the following: "1954 (not being a dwelling-house to which this Part, other than this

section, applies)". Mr Chairman, the purpose of this whole clause is as follows. So far as dwelling houses built before 1945 is concerned, whether they are furnished or unfurnished they are subject to rent control, but the intention of the Select Committee was that dwelling houses built on the following 10 years after the rent control period would be subject to control, I will not call it rent control but subject to controls on the charges they made for rent. When the dates of the rent controls fall back from 1954 to 1945 it follows that the subsequent 10-year period ends in 1954 instead of 1964, that is the purpose of the amendment.

MR SPEAKER:

Does any Member wish to speak on it?

HON A J HAYNES:

Sir, this is really an amalgam of Section 12 and 13 of the old Ordinance, that is, Section 32(1) and all its subdivisions and I was wondering whether the intention of the legislature is that extortion as indicated under Section 32(2) should only be applicable to pre 1954 dwelling houses because the old Ordinance distinguished between Section 12 and 13, obviously, whereas this one does not and I think that a lot of that distinction is erroneous.

HON ATTORNEY-GENERAL:

It is not quite as simple as that, Mr Chairman. This clause combines with the one section but nevertheless with two distinct parts that used to be sections 13 and 14. Clause 32(1) really brings forward Clause 13(2)(2) which is concerned with what used to be Section 14, and Section 14 uses the word "extortion".

HON A J HAYNES:

I appreciate that but my only concern is that extortion shall only be arguable in dwelling houses pre-1954 when obviously extortion should be extended to it.

HON ATTORNEY-GENERAL:

We are proposing an amendment to say that the period which this whole Clause covers is the period of 10 years beginning in 1945 and ending in 1954. There is no point in having provisions preventing extortion for the rent control which ends in 1945 because they are subject to even stricter controls on rent, anyway.

HON A J HAYNES:

I take the general point but, Mr Speaker, as I understood it, the old Section 14 applies to all dwelling houses.

HON J B PEREZ:

No, the Honourable Member is wrong, both Sections 30 and 40 of the previous legislation only refer to pre-1940 dwellings, if you care to read the Ordinance it is quite clear. It says: "where any person lets or has before the commencement of this Ordinance let any dwelling house to which this part applies". Similarly in Section 14 of the old legislation it says "where any person after the date of commencement lets a dwelling house to which this part applies". Therefore, the old Ordinance dealt with pre-1940 dwellings.

HON A J HAYNES:

I am grateful to them for the distinction but the point still remains, Mr Speaker, that the House should consider whether they think that extortion should only be related to pre-1954 dwellings whereas, whilst I understand the principle of making the comparative rentals as embodied in the old Section 13, now Section 32(1), I don't think that the legislature can exclude post 1954 flats from the charge of extortion. I think that should be applicable to all dwelling houses.

HON ATTORNEY-GENERAL:

I understand the point that is being made Mr Chairman but the reason why it is necessary under the existing law to apply it to all premises including and to go back beyond 1940 and why it is no longer necessary to do so now, is that under the existing law, of course, there is no general principle of rent control of furnished houses. There is a general principle of rent control of furnished houses between 1945 and the whole thrust of the new section, the new clause 32, is directed towards limited control in respect of furniture for the 1945/54 group. There is no need to go back now before 1945.

HON A J HAYNES:

If my Learned Colleague will give way. I take the point. My concern is for houses post 1954, were such an example to apply, that the tenant should be entitled to take the landlord to court for extortion. It could be implied, Mr Speaker, that because the legislature has specifically stated where extortion is a claimable offence that by inference it is excluded elsewhere so extortion would not be an offence in a post 1954 dwelling.

HON ATTORNEY-GENERAL:

The answer is that it will not I agree. What the law is saying is that after 1954 it will offer a remedy, that after 1954 a person who feels aggrieved will have to look for some other remedy as this Bill is not going that far.

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

MR SPEAKER:

Now we have 32(2) from Mr Isola.

HON P J ISOLA:

Mr Chairman, I am not sure whether I want to move this one. I have an amendment in my name to substitute the word "unreasonable" for the word "extortionate" in Clause 32(2)(b). The reason for that proposed amendment is that it seems to me that this is another case of what I call a double penalty. If a person is being overcharged, then the landlord has to repay what has been overcharged to the tenant but in addition, as I understand it, he also commits an offence. It seems to me that if the term is going to be unreasonableness, in one section it should also be unreasonableness in the other section. And then if it is still unreasonable that it is extortionate then, presumably, the fine will be that much higher.

HON ATTORNEY-GENERAL:

I think the answer to that in my understanding, and, I say in my understanding because we are bringing forward provisions which have been part of the law for some time, the answer to that is that whereas under subclause (1) an unreasonable rental may be recovered, in other words, civilly, from the tenant, sub clause (2) does go further and provides what is in effect a common law remedy and I think the rationale is surely this, that it is one thing to make a person criminally liable for extortion and it is another thing not to make him criminally liable for what is merely unreasonable because if that were the case we might all be in jeopardy some time.

HON P J ISOLA:

Mr Chairman, I withdraw that amendment.

HON ATTORNEY-GENERAL:

Mr Chairman I have to move that Clause 32(2) be amended by omitting "£100" and substituting "£1,000". The effect of that is the increase of penalty and that is in line with the comments I made earlier.

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

HON P J ISOLA:

Mr Speaker, before we pass this Clause as amended, I would like an explanation of sub-section 4. I just cannot understand it. As I understand it, Section 32 reads "this part of the Ordinance applies only to dwelling houses built before 1945". Then we get this section and it seems to me that this section, or does it, brings all dwelling houses built before 1954 also to this part. Could I have an explanation because I just don't quite understand it.

HON ATTORNEY-GENERAL:

Mr Chairman, just to recap briefly. Part III as a whole is concerned with property that has been built before 1945 but this particular clause is concerned with premises built after 1945 but before 1954 and it is concerned only to control the charges they make for furniture. The point of subclause (4) is to ensure that certain definitions contained in clause 10 are available for the purposes of this clause. Paragraphs (b) and (c) of subsection (1) of section (10) applies to a separate letting of a property and it applies to every part of a dwelling house that is separately let, the one distinguishing feature between this clause and the general scheme of Part III is of course that you can't apply (10)(1)(a) because these houses by definition are dissolved. The references to sub sections (2) to (6) of section (10) are intended to invoke all the definitive provisions that apply to dwelling houses which are subject to rent control under Part III.

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

Clause 33

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 33(6) be amended by omitting "£100" and substituting "£1000". Again this is intended to increase the penalty in the same way as previously mentioned but in this instance for charging a premium.

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

HON P J ISOLA:

Mr Chairman, I have an amendment to that Clause.

MR SPEAKER:

Yes, sub-section (9).

HON P J ISOLA:

That is, by adding a new sub-section (9) to read as follows. "(9) Nothing contained in this section shall prohibit the grant by the landlord to a tenant in consideration of the payment of a premium of a lease for a term of a years certain of a dwelling house to which this part applies on such terms and conditions as the parties may agree provided that (a) the term of the demise shall be for a period of not less than 42 years and (b) the rent payable throughout the term shall not be in excess of £5 per annum and (c) any service charges, if any, to be paid by the tenant under the terms of the lease shall be such as are fair and reasonable having regard to all the circumstances and in the event of disagreement as shall

be determined by the Rent Tribunal". The purpose of this amendment, Mr Chairman, is to allow the sale of flats in properties to tenants or anybody else, I suppose, in properties which are subject to this part of the Ordinance. Because the premium is illegal, unless this section is passed, it would be illegal for any owner of a flat in any pre-1945 property to sell the flat either to a sitting tenant or to anybody else and I think that it should be possible, in cases where the parties agree, for the tenant to be able to buy his flat from the landlord. I have put minimum conditions here. I think if it is to be allowed it should be for a lengthy period and that is why I have suggested not less than forty-two years, that could be changed to ninety-nine years but I do not know how old these buildings are or how much they have got to go. I put forty-two years which is almost considered freehold by many people. The second condition is so as to avoid any leases that are really contrary to the spirit of this part of the Ordinance, they should not be allowed to charge a rent in respect of a lease of more than £5 per annum so it would be a peppercorn rent, a nominal rent. The third one, it occurs to me that it is possible and it must be so in the cases of a property where flats are being sold from it, there is always provision for the payment of a service charge for maintenance of a property, outside painting, etc, etc, and I think that in those circumstances the service charges, again in order to prevent abuse or getting round what is intended by the Legislature, the service charge would have to be fair and reasonable and in the event of there being disagreement the Rent Tribunal should decide. If you sell a flat there has got to be some apportionment between the landlord and the tenant but by putting it subject to the Rent Tribunal one would be sure that there wasn't any getting round what is the intention of this part of the Ordinance which is to protect the tenant and therefore if there is going to be a sale of a flat it should be a genuine sale, that is what I want to put forward, and I would commend this amendment.

HON CHIEF MINISTER:

Why forty-two years?

HON P J ISOLA:

I said not less than forty-two years because I think it is considered that a lease of forty-two years is almost freehold but I am quite happy to pick any other figure, sixty, seventy-five. I have said forty-two because that is a long period but I am quite easy on the period of time.

MR SPEAKER:

Would the amendment be acceptable to Government if it were sixty?

HON CHIEF MINISTER:

Sixty, yes.

HON P J ISOLA:

I will propose it, Mr Speaker, in the terms standing in my name but substitute 'sixty' for 'forty-two'.

Mr Speaker put the question which was resolved in the affirmative and the amendment as further amended, was accordingly passed.

Clause 33, as amended, was agreed to and stood part of the Bill.

Clause 34 was agreed to and stood part of the Bill.

Clause 35

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the following subclause be added:

- "(5) On hearing the appeal, the Rent Tribunal may, subject to the prescribed terms and conditions, confirm or vary the assessment of the Housing Manager".

That is needed to complete this, Mr Speaker. At present the Rent Assessment Tribunal has these powers on appeal from a decision of the Housing Manager on the question of rent relief and I am bringing that forward.

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

Clause 35, as amended, was agreed to and stood part of the Bill.

New Clause 36

HON P J ISOLA:

Mr Chairman, I propose a new clause immediately after clause 35, a new clause to be numbered 36 and to renumber all subsequent clauses, to read as follows:

- "36. Notwithstanding the provisions of Section 13 of the Court of First Instance Ordinance the Court shall have jurisdiction to hear and determine any action for the recovery of possession of a dwellinghouse to which this part applies".

The purpose of this amendment, Mr Chairman, is to make Part III effective because under the Court of First Instance Ordinance the Court can only have jurisdiction to deal with actions for recovery of possession where the annual value is

£150 or under and I don't think there are many flats in Gibraltar today that have an annual value of under £150, most of them are over £150, and the purpose of this amendment is to ensure that the Court of First Instance has jurisdiction to hear any case that involves Part III of the Ordinance. Therefore I think this clause is necessary if Part III is going to be in fact effective as far as the Court of First Instance is concerned.

HON ATTORNEY-GENERAL:

But surely, with great respect, Mr Chairman, the Court of First Instance Ordinance may say one thing but if another Ordinance of this House confers the jurisdiction on a Tribunal there is no need to have a belt and braces job, as it were. Part III of this Bill confers a jurisdiction on a Court which is defined as being, insofar as this Part is concerned, the Court of First Instance.

HON P J ISOLA:

It is a very important point. This Ordinance says, I think, "Court" in Part IV means the Supreme Court but otherwise means the Court of First Instance". As I read that the Court of First Instance will be the Court to which proceedings under Part III should be brought provided it has jurisdiction to hear them and under the Court of First Instance Ordinance it says specifically that the Court of First Instance only has jurisdiction to hear cases for possession - not for other things - of a dwellinghouse if the annual value is under £150. It seems to me that you can go to the Court of First Instance but if you are going to go to recover possession the only ground is they do not pay rent or that you are giving alternative accommodation or whatever, I think the question of jurisdiction would be quite appropriate if the annual value of the flat is over £150 because all the Landlord and Tenant says if you have a dispute about this you go to the Court of First Instance but that pre-supposes the Court of First Instance has jurisdiction under its constitution to hear it, it hasn't at the moment.

HON ATTORNEY-GENERAL:

The fact that the Hon and Learned Leader of the Opposition himself makes the point makes it worth considering, obviously, but let me be clear that my own view is that it may be that when the Court of First Instance was set up the scheme of it was to spell out the jurisdiction of that Court but certainly I would be staggered if it was an exclusive jurisdiction and what Part III of this Bill does is to confer a general jurisdiction.

MR SPEAKER:

In any event you have been put on notice by the Honourable and Learned Leader of the Opposition as to what his feelings are.

The answer is, perhaps, that the Hon Leader of the Opposition should not press with the amendment and the matter can be considered at a later stage if need be.

HON P J ISOLA:

I am not withdrawing it.

MR SPEAKER:

I understood that you said before that you just wanted to bring to the notice of the Attorney-General the possible consequences of not having such a section in the Ordinance. The Hon the Attorney General has said that he will give it some consideration. There is no reason why an amendment should not be brought later on if it is considered to be necessary. If you want to press with your amendment, you are free to do so by all means.

HON P J ISOLA:

I am putting the amendment forward. What I understood is that the Hon and Learned Attorney-General would like to consider this one further but I am not going to withdraw it.

HON ATTORNEY-GENERAL:

I think I have the answer now actually in the terms of the Second Schedule but it would help me if the Hon and Learned Leader of the Opposition is prepared to indicate this bearing in mind his long experience and relations with this Ordinance, if he could clarify one point for me and that is, the present definition in the Court of First Instance Ordinance, is that sufficient to cover all the dwellinghouses which we at present treat as being under the jurisdiction of the Court of First Instance under the existing Landlord and Tenant Ordinance?

HON P J ISOLA:

No, I think under the existing Landlord and Tenant Ordinance if the annual value is more than £150, I think you have to go to the Supreme Court, that is my experience.

HON A J HAYNES:

Mr Chairman, the net annual value is the figure given by the Government Rating Department and it is my experience that there is no dwellinghouse to which the Court of First Instance applies, the jurisdiction on all cases is now being taken to the Supreme Court. The Attorney-General may also consider having a section towards the end amending the Court of First Instance Ordinance in the same way as the Income Tax Ordinances is amended to increase the net annual value to a figure to be

advised by the Rating Officer, to a figure in the region of £1,000.

HON ATTORNEY-GENERAL:

If it is in fact the practice to oblige people to go up to the Supreme Court in those circumstances, clearly at least one has to contend with the view that is obviously held by the Court. I will look into it. I will look into it.

HON P J ISOLA:

I am prepared to let it stand by until tomorrow. I am moving the amendment, I am quite happy not to move it now. Mr Chairman, we are now going into business premises, is it proposed to sit much longer?

MR SPEAKER:

Another half hour, I would say, no more than that.

Clauses 36 and 37 were agreed to and stood part of the Bill.

Clause 38:

HON P J ISOLA:

Mr Chairman, I beg to move the amendment standing in my name and that is the amendment by adding a new subsection (7):

"(7) The Register shall be open to inspection by any member of the public on payment of the prescribed fee".

It seems to me that there should be a right among the public to be able to inspect the Register of registered tenancies, on payment of a prescribed fee similar to what is done in companies registry and everything else and I think the right should be there specifically.

HON M K FEATHERSTONE:

The Select Committee discussed this matter and felt that the rent paid by a tenant was a private matter between themselves and the landlords otherwise you could put a parallel that the rent of every private dwelling should be available to the general public. We think that this is not something to be recommended, it was specifically discussed in the Select Committee and it was thought that it should not be available

to the general public even on payment of a fee.

HON P J ISOLA:

Mr Chairman, I cannot understand that because the purpose of having a Register of business tenancies, I would have thought, was to arrive at a situation where eventually, hopefully, there will be some uniformity in rents of business premises and if it is only going to be there for the Rent Assessor to look at you are going to be in the position in the future that rental settlements will be made without going to Court, of business premises I am talking about. The Register is going to be of no use because rental settlements will be made, the rent will be reported to the Register of business tenancies and when there is a case in Court, the odd case there is, and I assure the House there are not many that actually go to Court, when that happens the Rent Assessor will be caught by the rentals that have been agreed between the parties. The purpose, I would have thought, of a Register of business tenancies and making it available to interested parties, the purpose of it was eventually to arrive at uniformity, that John Smith down the road in Main Street pays £600 a month, that John Snooks five doors up will be paying around the same rent and not £1,000 because of the persuasive valuer or the persuasive negotiation or anything else. The idea, I understood, of a Register of business tenancies was to have rents of different places, measurements and everything out and gradually achieve uniformity. But unless cases go to Court there won't be uniformity, but if the Register is open to inspection then somebody comes along and says: "Yes, but John Smith is paying this rent". And another thing I would like to say is that somewhere there is a provision in this Bill under which any tenancy must be for a minimum period of five years. Under the provisions of the law if the lease is for a term longer than three years, by law the lease has to be registered so that anybody can in fact inspect it by going to the registry of Crown Lands, it is open to inspection to the public free but it is a much more laborious procedure but it is available to people so that if all new tenancies are going to be for a period of five years under the new law it means that all rents that are being charged for business premises can, given a bit of trouble, be published and can be searched and ascertained. In those circumstances I would have thought that the sensible course to follow would be to make the Register of business premises open to inspection but make the prescribed fee, possibly, £3 or £4 or £5, so that we do not get people searching just to find out easily what John Smith is paying for his shop. But I think that if you are going to have the Register it will fulfil no useful purpose unless it is open to

inspection as, indeed, the Lands Registry is today and the Supreme Court Deeds Registry is today. I think that if the Select Committee had known that by recommending a minimum of five years for every lease that that in fact has the result that it is open to inspection for the public because they have to be registered, they would not surely have objected to the inspection of the Register of business premises and accordingly I move my amendment.

HON M K FEATHERSTONE:

We are willing to accept the amendment.

HON CHIEF MINISTER:

Yes, we also have a prescribed fee which is sufficiently high to prevent abuse.

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

Clause 38, as amended, was agreed to and stood part of the Bill.

Clauses 39 and 40 were agreed to and stood part of the Bill.

Clause 41

HON ATTORNEY-GENERAL:

Mr Chairman. I propose that this be amended by omitting the figures "£100" and "£5" and substituting the figures "£1,000" and "£25" respectively. The effect of that would be to introduce a basic penalty of £1,000 maximum for not registering or complying with the requirements of the Ordinance as to registration and the subsequent penalty of £25 per day which I may say I think is rather high in normal circumstances and perhaps if the Government has no objection I would like to reduce it. To omit "£100" and "£5" respectively and to substitute "£500" and "£10" respectively.

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

Clause 41, as amended, was agreed to and stood part of the Bill.

Clause 42

HON ATTORNEY-GENERAL:

Mr Chairman, this is a very small amendment but by your leave I would like to leave this one until tomorrow as well, I want to discuss it in the context of other amendments.

MR SPEAKER:

In other words, you don't want to do Clause 42. Clause 42 we will leave in abeyance.

Clause 43

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by omitting everything after the words "the substitution for" and substituting the words "the maximum period of notice permitted under the Fifth Schedule of a period 6 months longer than the length of notice to quit which would have been so required". The intention of this, Mr Chairman, is as follows. Under the existing law, where the landlord terminates a tenancy there are certain stipulations as to the length of time or length of notice that a termination must be given and Section 38 of the existing Ordinance says that the landlord may terminate a business tenancy by giving notice in the prescribed form and then Section 38(2) says that the notice shall not have effect unless it is given not more than 12 months nor less than 6 months before the date of termination specified in the notice. The Bill is changing that to the fact that it shall not have effect unless it is given within the appropriate period specified in the Fifth Schedule but then Section 38(3) of the existing Ordinance has a further provision which says that where a tenancy could have been brought to an end by a notice to quit apart from the Ordinance, he cannot give a date of termination that is earlier than the earliest date of which apart from the provisions of the Ordinance the tenancy could have been brought to an end, in other words, you cannot defeat the contractual date of termination and following on from that it says that where apart from this Ordinance you would have had to have given more than six months notice to quit to bring the tenancy to an end, in other words, more than six months under the contract itself, then you read Section 38(2) of the Ordinance by substituting instead of the maximum period of 12 months you substitute six months more than the actual notice required under the contractual tenancy and the amendment that I am proposing to this Bill, if Members are still with me and

I appreciate if they are having some difficulty staying with me, but the amendment that I have proposed to the Bill is intended to bring that principle forward and include it in the new clause 43(3)(b) that instead of being able to refer simply to the 12-month period, one has to refer to the Fifth Schedule. Mr Chairman, I think I will stop there and await questions.

HON P J ISOLA:

You are not getting any.

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

Clause 43, as amended, was agreed to and stood part of the Bill.

Clause 44, was agreed to and stood part of the Bill.

Clause 45, was agreed to and stood part of the Bill.

Clause 46, was agreed to and stood part of the Bill.

Clause 47

HON P J ISOLA:

Mr Chairman, I have two amendments to Clause 47(2) and Clause 47(3), the same in both cases, and that is to amend (2) and (3) by starting them off with the words "subject as is herein-after provided", where such an application is made. The reason for that is that under section 56 there are more notices and more applications.

HON ATTORNEY-GENERAL:

I am sorry, Mr Chairman, but I do have a view on this. I take the purpose of the amendments to be the extension of time that they are to be read subject to the extension of time provisions in clause 56. I would like to state my own opinion which is that those provisions override section 47 (2) and (3) in any event. I personally don't consider that the amendments are necessary. I am in any event proposing to widen Clause 56 to make it clear that it covers notices, applications and requests. The actual words "subject as is hereinafter provided", I personally do not consider necessary because I think it is clear that section 56 does override everything else.

Mr Speaker put the question and on a vote being taken on Clause 47(2) the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

Mr Speaker put the question and on a vote being taken on Clause 47(3) the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

Clause 47, was agreed to and stood part of the Bill.

Clause 48

HON ATTORNEY-GENERAL:

Mr Chairman, in relation to Clause 48 which involves the points which have been raised earlier, it is a complicated matter and I think it would be difficult to look at Clause 48 and I would suggest that we leave that Clause until tomorrow.

MR SPEAKER:

Most certainly.

HON P J ISOLA:

Can I, Mr Chairman, just go back one moment to Clause 47 so that the Hon and Learned Attorney-General consider this when dealing with Clause 56 and that is that Clause 47(2) doesn't give a time in which a tenant has to give notice that he would not be willing to give or is that in an earlier Clause? It doesn't give a time and yet in Clause 56, I say that because we were dealing with Clause 56, it allows an extension of time for giving any notice. Under section 47 it says you have got to make an application to the Court not less than two and no more than four months after the giving of the landlord's notice but it does not say when the tenant has to reply to the notice of the landlord in section 47.

HON ATTORNEY-GENERAL:

The time limit within which it must be done is dealt with elsewhere.

HON J B PEREZ:

You have it in section 43, sub-section (5).

Clause 49 was agreed to and stood part of the Bill.

Clause 50 was agreed to and stood part of the Bill.

Clause 51

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by inserting after the words "5 years" the words "and not more than 14 years". This reverts to the original proposals which were to have an upper and lower limit on the terms for which a new tenancy could be granted by the Court and I think this was explained in the Second Reading.

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

Clause 51 was agreed to and stood part of the Bill.

Clause 52 was agreed to and stood part of the Bill.

Clause 53 was agreed to and stood part of the Bill.

Clause 54 was agreed to and stood part of the Bill.

Clause 55

HON ATTORNEY-GENERAL:

Mr Chairman, this is also related, as are a number of subsequent Clauses, to the amendments which will be involved in the consideration of Clause 48 and can I also say that once the amendments to Clause 48 are settled the consequential amendments to this Clause and to a number of other ones which follow very readily so I would like this to be deferred.

MR SPEAKER:

We will defer Clause 55.

Clause 56

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by inserting after the word "notice" the words "or making any application or request" in subclause (2). The intention of this amendment, Mr Chairman, is to cover all the possibilities so far as an extension of time is concerned. One may extend time for giving a notice or in the case of a tenant for requesting a new tenancy or applying for a new tenancy.

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

Clause 56, as amended, was agreed to and stood part of the Bill.

Clause 57

HON ATTORNEY-GENERAL:

Mr Chairman, with your indulgence can I just explain that the amendments to Clause 57 that I am proposing are purely consequential on what happens to Clause 48 and would involve immediate consequential changes and it really cannot be done until Clause 48 has been disposed off.

MR SPEAKER:

So Clause 57 we leave in abeyance.

Clause 58

HON ATTORNEY-GENERAL:

And again with Clause 58.

MR SPEAKER:

Clause 58 we leave in abeyance.

Clause 59 was agreed to and stood part of the Bill.

Clause 60

HON ATTORNEY-GENERAL:

Clause 60(1)(a), Mr Chairman, I move to omit the words "and in the Fourth Schedule" which becomes an irrelevant reference.

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

Clause 60, as amended, was agreed to and stood part of the Bill.

Clause 61

HON ATTORNEY-GENERAL:

Mr Chairman, I move in Clause 61(2)(a) to omit the words "and in the Fourth Schedule" for the same reason.

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

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

Clauses 62 to 64 were agreed to and stood part of the Bill.

Clause 65

HON ATTORNEY-GENERAL:

Mr Chairman, the amendments to this Clause are directly consequential on the amendments to Clause 48.

MR SPEAKER:

We will leave it in abeyance.

Clause 66

HON ATTORNEY-GENERAL:

Again, Mr Chairman, by your leave we will defer this clause.

MR SPEAKER:

We will leave Clause 66 in abeyance.

Clause 67

HON ATTORNEY-GENERAL:

And again and finally, I think, this Clause, Mr Chairman.

MR SPEAKER:

We will leave Clause 67 in abeyance.

Clause 68

HON P J ISOLA:

Mr Chairman, I have an amendment which is related, I think, to Clause 48 but I am quite happy to move it.

HON ATTORNEY GENERAL:

I would suggest, Mr Chairman, if the Hon and Learned Leader of the Opposition will agree, I think even though we are talking about a number of Clauses we are talking about,

basically, two or three points or principle which are probably better considered together.

MR SPEAKER:

To leave it in abeyance until tomorrow.

HON P J ISOLA:

I have quite a lot to say on Clause 69.

MR SPEAKER:

There are no amendments to Clause 69. What is being suggested by Mr Isola is that he has a lot to say on Clause 69 and whether this would be a convenient time to recess, is that right?

HON CHIEF MINISTER:

Could we reserve that one and see whether we can jump up to Clause 75 for which there are no amendments.

MR SPEAKER:

There are no amendments, precisely. We will leave Clause 69 in abeyance.

Clause 70

HON P J ISOLA:

I think Clause 70 should be left in abeyance because in that again compensation is linked with Clause 48, I don't know how it is going to emerge but there was a Clause that was going out which referred to Clause 70. I don't know whether that could be affected.

HON ATTORNEY-GENERAL:

I can perhaps, help, Mr Chairman. It is connected but not integrally, if I may use that word. The other compensation provisions refer to Clause 70 but Clause 70 compensates and is really quite distinct from the compensation under the other Clauses and provided Members are happy this could be considered quite separately.

MR SPEAKER:

In other words, any amendments to Clause 48 will not affect it.

HON ATTORNEY-GENERAL:

My own view is not in any real sense.

MR SPEAKER:

There is no reason why we shouldn't take it now.

Clauses 70 and 71 were agreed to and stood part of the Bill.

Clause 72

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 72(1) be amended by omitting the word "court" and substituting the words "court of competent jurisdiction". The reason for that simply is that the phrase does refer to a court and this could be the Court of First Instance or it could be the Supreme Court so I think we have got to cover that possibility.

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

Clause 72, as amended, was agreed to and stood part of the Bill.

Clauses 73 and 74 were agreed to and stood part of the Bill.

Clause 75

HON P J ISOLA:

I move to delete the words "within three months after the date of termination of a current tenancy" in the third and fourth lines and substitute the words "within four months after the date of a notice of termination of a current tenancy". The reason for that is that under this section the Supreme Court can make an interim order for payment of rent and if you have to wait three months after the date of termination of a current tenancy you are going into, I don't know where you are going into, I don't know when the current tenancy is terminated, certainly after six months so you are talking of a period of nine months or the current tenancy is continued until an order is made by the Court, I don't know. I am not sure this makes sense as it is but what I am suggesting is that within four

months after the date of the notice of termination of a current tenancy enables an interim rent to be awarded within a period of six months because these applications tend to go on for some while but that one is linked with the next section where I am suggesting an amendment that after the word "lease" one puts "or tenancy" because not all premises have a lease. I have got a query on 75(b) as well. Some people have a lease, the lease finishes, some people give notices, other people don't give a notice. Supposing that somebody gives a notice terminating the tenancy after the lease has terminated, is the Court going to be able to go all the way back to when the lease terminated, I would have thought that wouldn't be right. I think the principle of back-dating rent as to when it can be paid must be watched very carefully and I have made an amendment, Mr Chairman, I should tell you that by the time I got to Clause 75 this week-end I was pretty exhausted having tried to do all these amendments and I haven't given Clause 75 the thought that I think it ought to have because it seems to me that current tenancy, subsection (1) of section 44, 'for the tenancy under which he holds.....

HON ATTORNEY-GENERAL:

Will the Hon and Learned Leader of the Opposition give way? There is a reason for this. The intention is to enable an interim award to be made before a final outcome. I wonder, Mr Chairman, by your leave, if this could stand over until tomorrow, this is an important one.

MR SPEAKER:

Clause 75 is being left over until tomorrow.

Clause 76

HON ATTORNEY-GENERAL:

I move that Clause 76(1)(b) be amended by omitting the words "the court" and substituting the words "a court". I think we have to cover every possibility whether the Supreme Court or the Court of First Instance.

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

Clause 76, as amended, was agreed to and stood part of the Bill.

Clauses 77 to 80 were agreed to and stood part of the Bill.

MR SPEAKER:

I feel that that is perhaps a reasonable time to recess until tomorrow morning at 10.30 as usual.

The House recessed at 00.25 am.

TUESDAY THE 15TH DECEMBER, 1983

The House resumed at 10.45 am.

MR SPEAKER:

I will remind the House that we are still in the Committee Stage of the Landlord and Tenant Ordinance and that last night we finished Clause 80.

Clause 81

Mr Chairman, I move that Clause 81 be re-numbered as sub-clause (1) thereof and in sub-clause (1) as so re-numbered to omit the words "for the year of assessment all money paid by him in accordance with section 15 of that Ordinance during that", and substitute "all money paid by him in accordance with section 16 of that Ordinance during the year preceding the". Mr Chairman, would you wish me to speak to this amendment first before I go on to the next one?

MR SPEAKER:

I think it is right that the House should be given the right to vote separately so perhaps it would be better if we took the amendments separately.

HON ATTORNEY-GENERAL:

Hon Members will recall that one of the aspects of the sinking fund is that money paid into it is tax deductible and this amendment is simply a technical amendment following consultations with the Commissioner of Income Tax. The effect of it is that the money deducted in one year will be taken into account in the following year of assessment because rents in a year of assessment are the rents of the previous year and that is the purpose of that, Mr Chairman.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I also move that the following sub-clause be added:

"(2) The Landlord and Tenant (Temporary Requirements as to Notice) Ordinance, 1981, is amended -

"(a) by inserting, as section 1A, the following new section:

"Interpretation. 1A In this Ordinance, 'the appointed day' means the date appointed under section 1(2) of the Landlord and Tenant Ordinance, 1983, for the commencement of that Ordinance".

"(b) in section 2(1), by omitting the expression '31st day of January, 1984' and substituting the words 'the appointed day'.

"(c) in section 3(1), by omitting the expression '1st day of February, 1984' in both places where they appear, and substituting in each case the words 'the day following the appointed day'.

Mr Chairman, the point of this amendment is to consequentially amend what is popularly known as the moratorium so that instead of expiring as it will at present on the 31st January, 1984, it will expire when the new Ordinance comes into force.

HON P J ISOLA:

Mr Chairman, this of course is a substantial amendment which extends the moratorium sine die and I think before we agree to it, I think we ought to have some indication how the Government sees this developing. In other words, are we talking of a period of six months, are we talking of a period of three months, two months, I would just like to know?

HON CHIEF MINISTER:

My hope will be, if we can make arrangements for the Rent Assessor, that the Ordinance would come into operation either on the 1st March or on the 1st April, that is as early as I hope it will be and steps are already in hand for the recruitment of a Rent Assessor.

HON J BOSSANO:

I will support the extension of the moratorium but one thing that I find difficult to understand is since the new law does not apply to the properties to which the moratorium applies, what is the logic of the extension of the moratorium? I support it because obviously as long as there is a moratorium the tenant is going to be protected.

MR SPEAKER:

It does apply to business premises too, doesn't it?

HON ATTORNEY-GENERAL:

Well, I think it is greater and smaller circle. The moratorium applies to every tenancy, the new law applies to a narrower category of tenancy but I think that until that new regime is in force there is still point in retaining it.

HON J BOSSANO:

Mr Chairman, under the moratorium the pre-1940 properties are not affected because in fact under the existing Landlord and Tenant Ordinance they are already controlled. Private dwellings before 1940 which now have a statutory rent irrespective of the moratorium cannot have their rents increased. The dwellings that can have their rents increased are post-1940 properties. Post-1940 properties are not going to be controlled under the new law because the extension from 1940 to 1945, as we found out in the First Reading of the Bill, affects no properties at all because none were constructed in that period.

HON ATTORNEY-GENERAL:

I think, if I can clarify the scope of the moratorium, it applies to every tenancy. It applies not only to post-1940 but to pre-1940 because even though pre-1940 tenancies are rent controlled there is still the possibility of a statutory increase in that rent under the machinery contained in the existing Ordinance so the moratorium does extend to tenancies of all kind. Of course, to repeat myself, really, if it weren't for the moratorium it would only be possible to increase rents of pre-1940 tenancies under controlled conditions but they can be increased.

HON J BOSSANO:

As I recall the initial Bill introducing the moratorium, it stated specifically, did it not, Mr Speaker, that in fact it

did not apply to rent increases authorised under the provisions of the Landlord and Tenant Ordinance, the statutory rent has been increased when the moratorium has been in force, by this House.

HON ATTORNEY-GENERAL:

With respect, I don't think that is correct. There is certainly no limitation in the moratorium Ordinance which excludes its application to a statutory rental increase, I am quite confident of that, actually.

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

HON ATTORNEY-GENERAL:

Mr Chairman, may I speak further on Clause 81, I want to explain a point?

MR SPEAKER:

Most certainly, yes.

HON ATTORNEY-GENERAL:

This Clause deals with consequential amendments to other enactments and I think it is an appropriate point at which to return to the question that was raised yesterday, namely is the effect of the Court of First Instance Ordinance to prevent that Court from having jurisdiction to eject people under this Ordinance? The position, in my view, Mr Chairman, is this. I find it very difficult to see, quite frankly, how the Court of First Instance Ordinance as it now stands, forgetting about this Bill, I find it very difficult to see how as it now stands anybody can go to the Supreme Court under Part (2) of the existing Landlord and...

HON P J ISOLA:

Are you still explaining Clause 81?

HON ATTORNEY-GENERAL:

Yes, I am. What I am saying, Mr Chairman, is that Clause 81 deals with consequential amendments to other enactments and I think this is an appropriate Clause at which to speak to the question of the jurisdiction of the Court of First Instance under another enactment, namely, its own Ordinance, and what I

am saying is the point was raised yesterday or put as to whether or not because of the limitations in that Ordinance, that Court can grant possession under this Ordinance and what I am saying is, before I come to the immediate point, I find it very difficult to understand how under the existing law the view can be taken that if a property has more than a certain value under Part II, in other words, the part dealing with dwellinghouses, if the property has more than a certain value the landlord or the tenant can go to the Supreme Court because, frankly, when you look at the Landlord and Tenant Ordinance and you look at Part II, it is perfectly clear that it is talking about the Court of First Instance and even if there were a limitation on jurisdiction which for the reasons I am about to give I don't think is the case, I cannot see how that can be termed into jurisdiction for the Supreme Court and if people are going to the Supreme Court under Part II of the existing Ordinance, I just don't follow it. But, however, that is really by way of an aside.

HON P J ISOLA:

But if you go to the Court of First Instance and they tell you they have not got jurisdiction and you go to the Supreme Court and they take jurisdiction, the Hon and Learned Attorney-General may not see how that happens but that is what is happening and therefore I think it is in the interest to clarify the situation to leave it beyond doubt, that is what I am saying.

HON ATTORNEY-GENERAL:

I take the point of what is being said. I cannot resist still making a remark though that I don't see how the Supreme Court assumes jurisdiction for a part of an Ordinance which talks about the Court of First Instance. But be that as it may, my view on the present position is that the Court of First Instance Ordinance was passed in 1960. This Ordinance will be passed in, 1983, if the House passes it, so this is a subsequent Ordinance. It is an ordinary canon of statutory interpretation that a subsequent Ordinance even if there is an apparent conflict and I am by no means persuaded that there is, but a subsequent Ordinance is taken to extend or go beyond a previous Ordinance. But more to the point, if one looks at Clause 18 of this Bill, Clause 18(1) says that 'no order or judgement for recovery of possession of any dwellinghouse to which this Part applies or for ejection shall be made or given unless the court considers it reasonable to do so' - I am paraphrasing - "and either (a) the court has power to do so under the provisions of the Second Schedule". If one looks at the Second Schedule that is what it

says and I really cannot myself see that there is any question of a lack of jurisdiction.

MR SPEAKER:

We are in Committee and I had misgivings when you referred to the Second Schedule last night because I think the Second Schedule applies exclusively to possession or ejection without proof or alternative accommodation in certain circumstances and not generally the powers and jurisdiction of the Court to administer the Ordinance.

HON A J HAYNES:

Mr Chairman, I think it would be in the interest of clear legislation *ex abundatia cautela* to ensure that there is no conflict as between the net annual value limitations and the wider scope which is proposed in the legislation and certainly unless the Attorney-General is prepared to introduce a new clause at the end of this Bill which will raise the net annual value because if that is done to say a figure in the region of £2,000, then of course there would be no likely conflict. In the circumstances where the net annual value remains at £150, it may still be open to argument for counsel to question the jurisdiction of one court as opposed to the other because otherwise the Judge would have to take the view that the section in the Court of First Instance Ordinance is repealed in fact rather than by statute.

HON P J ISOLA:

Mr Chairman, we are really dealing with an amendment that isn't here under this Clause but I think what we ought to do at this stage is to address ourselves to this Clause because I can see some problems arising with the procedure that we are following. This Clause extends the moratorium.

HON ATTORNEY-GENERAL:

Perhaps I could try and help the Hon and Learned Leader of the Opposition, we will adopt the amendment he has proposed and perhaps we can come back to that.

HON P J ISOLA:

I am not going to talk about my amendment, I am talking about the problems of this amendment. I will tell the Hon and Learned Attorney-General why. If this Ordinance is not brought into effect before the 31st January, 1984, you get the

situation, do you not, that the moratorium dies on the 31st December and the Landlord and Tenant 1959 Ordinance comes back into effect on the 1st February because this law is passed but does not come into effect until there is a notice in the Gazette.

MR SPEAKER:

Yes, that is correct. For the moratorium to be extended by this law it has to come into operation before the expiration of the existing term of the moratorium.

HON P J ISOLA:

Because the Landlord and Tenant is repealed by this Ordinance but this Ordinance doesn't come into effect until there is a notice in the Gazette.

HON ATTORNEY-GENERAL:

The short answer would be to say in Clause 1 that this Ordinance, other than this sub-section, does not come into force until a date to be appointed, that is the way we would cover the point.

HON P J ISOLA:

We had better not forget that.

Clause 81, as amended, was agreed to and stood part of the Bill.

Clause 82 was agreed to and stood part of the Bill.

Clause 83

HON A J HAYNES:

Can we have some explanation. This is the one that in effect ensures that this Ordinance applies even to a date before the Ordinance is enacted.

HON ATTORNEY-GENERAL:

If I can explain briefly the position. This is a saving Clause. The first part of it saves previous subsidiary legislation until we make new legislation under the new Bill. The second part of it is intended to say that until people apply under the new Ordinance for rate assessment in accordance with that Ordinance it is up to either party to go to the Assessor under the new system and get a review of rent and I am

proposing an amendment, Mr Chairman, because the transitional provisions, some of which are already here, are being taken exclusively into the Fourth Schedule. Perhaps if I can move my amendment, Mr Chairman, which is to omit everything after paragraph (a) and substitute the following: "(b) any rent payable in respect of any tenancy under or by virtue of the former Ordinance (being a tenancy to which Part III or Part IV of this Ordinance applies) shall continue to be the rent payable under that tenancy until the rent in respect of that tenancy is determined on the application of the landlord or tenant in accordance with this Ordinance".

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

HON A J HAYNES:

Mr Chairman, at this stage do I understand it then that (b) and (c) are out?

MR SPEAKER:

Most certainly, that is what I have said and it is being substituted by the new (b) of which you have been given notice and I just read it. You keep (a) and then you delete everything after (a) and you have a new (b).

HON A J HAYNES:

Can I have an explanation? Are these the ones which in effect ensure that this Ordinance really links up as from the old main Ordinance in that there is continuity from one to the other and that this intervening period of two years cannot be a sort of limbo land in legal terms, is that correct?

HON ATTORNEY-GENERAL:

Partly, yes, Mr Chairman. This is saving the existing regulations and it is also saving existing rents until the new Ordinance comes into force. So far as existing proceedings before a Tribunal or a Court are concerned, that is being dealt with in the Fourth Schedule on which I have amendments.

HON A J HAYNES:

How would this affect business tenancies insofar as a number of business tenancies leases have expired in the intervening two years, how would it affect the position of either landlord or tenant in those circumstances?

HON ATTORNEY-GENERAL:

This provision will not but there is a provision in the Fourth Schedule as well to deal with it. In short, it provides for an extension of time. If the matter is being determined so be it but if the matter hasn't been determined that provides for an extension of time from the beginning of the new Ordinance. Perhaps, if I can explain that in the context of the Fourth Schedule.

HON P J ISOLA:

In other words, you are making provision for paragraph (c) in the Fourth Schedule or similar provision.

HON A J HAYNES:

Is this paragraph (a) a sort of standard way of making it retrospective?

HON ATTORNEY-GENERAL:

Paragraph (a) is not retrospective.

HON A J HAYNES:

In any event, is paragraph (a) a standard form of saving clause?

HON ATTORNEY-GENERAL:

Are you talking about paragraph (a) in the green Bill? Well, my experience is that it is.

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

Clause 83, as amended, was agreed to and stood part of the Bill.

MR SPEAKER:

We have now done all Clauses other than those Clauses which were deferred for further discussion. We can most certainly, if it is so wished, do the Schedules now and then proceed with the other Clauses but I think it is right for good order that we should take the clauses which were deferred from last night.

HON ATTORNEY-GENERAL:

Mr Chairman, in that event, by your leave, can we look at Clause 1 again, is that possible?

MR SPEAKER:

Strictly speaking the Committee can do what it likes. A decision has been taken on Clause 1 but it can be re-opened if you want and the House agrees, not otherwise. Mr Isola, is it accepted that we should reconsider Clause 1?

HON P J ISOLA:

Mr Chairman, I cannot but agree to that because if we don't there is going to be chaos.

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to move an amendment, by your leave. The amendment I would like to move is that Clause 1, sub-clause (2), be amended by inserting after the words "This Ordinance" the words "other than subsection (2) of section 81". The effect of that would be that as soon as this Ordinance passes, the amendment to the Landlord and Tenant Ordinance would be effective, the moratorium would be effective.

Mr Speaker put the question which was resolved in the affirmative and Clause 1, as amended, was agreed to and stood part of the Bill.

Clause 2

MR SPEAKER:

The Hon and Learned Attorney-General has just circulated an amendment to Clause 2 and I imagine he wishes to withdraw the amendment of which he gave notice yesterday to this Clause or is it exactly the same?

HON ATTORNEY-GENERAL:

If I may withdraw the amendment that I gave notice of yesterday. Mr Chairman, I would like to move that Clause 2 be amended by adding the following sub-clause:

"(3) For the purposes of this Ordinance, where -

- (a) any premises are held by a company or other body corporate as a landlord or as a tenant; and

(b) it is material for any purpose of this Ordinance that such holder of the premises has transferred or assigned its interest in the premises or has ceased to occupy the premises -

then unless a court of competent jurisdiction otherwise determines, any transfer or change in the legal or beneficial ownership of any share in the company or other body corporate (other than a bona fide transfer by way of security only) or any change in its membership, shall constitute such a transfer, assignment or cesser of occupation, as the case requires".

Mr Chairman, I adhere to what I said yesterday that I think it is desirable to have a provision of this nature as a general provision which is why I am proposing to put it in Clause 2. The Hon and Learned Leader of the Opposition will see, in fact; that overnight I have adopted as my own some of his thoughts.

HON P J ISOLA:

I think this is much more satisfactory now because it identifies landlord or tenant. There is another amendment that I am afraid is required - and that I thought about last night as well, and that is of course that one has to put '(other than a bona fide transfer by way of security only)', I think we will also have to make provision in the case of an intestacy of a passing by a will of property.

HON ATTORNEY-GENERAL:

I am sorry, I missed the last point.

HON P J ISOLA:

I think there also has to be a need because one talks of a change in legal or beneficial ownership, I think one has to exclude change of ownership resulting from an intestacy or a will.

HON ATTORNEY-GENERAL:

We are going some distance towards covering a way in which the law can be got around and that could easily be achieved by amending the amendment, by amending the part in brackets: "(other than a bona fide transfer by way of security only or

HON P J ISOLA:

I think it should be 'or a change in the legal or beneficial ownership resulting from an intestacy or by succession'.

HON ATTORNEY-GENERAL:

Can I move an amendment to the amendment?

MR SPEAKER:

I would rather that someone else did. I don't like an amendment being amended by the mover. Perhaps you might draft it and let some Member of the Government move it.

HON CHIEF MINISTER:

I think there is a simpler way - 'or on succession on death'; add the words "or on succession on death" after the word "only" just before the end of the bracket in the fifth line.

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

HON P J ISOLA:

Mr Chairman, I agree that this meets the problem in relation to section 48 and another section. What I am not sure is whether this will create problems in other sections of the Ordinance. I don't know whether there are other provisions where it is not intended that this should occur which might be affected, I don't know, I would have to look through it.

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

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

Clause 3

MR SPEAKER:

Insofar as Clause 3 is concerned I will remind the Committee that we suspended deliberation of this Clause at the point when the Hon and Learned Mr Isola had moved an amendment to the amendment which had already been moved by the Hon and Learned the Attorney-General. That is the first thing we have got to do before we

can tackle anything else. Mr Isola, when we suspended the deliberation of this Clause last night we got to the stage when I was going to put the question, do you wish to say anything further before I do.

HON P J ISOLA:

Is this on Clause 3(2)?

MR SPEAKER:

This is on the amendment moved by the Hon and Learned the Attorney-General to omit subclause (4) and substitute therefor a new subclause which you amended.

HON P J ISOLA:

There is another amendment here.

MR SPEAKER:

I accept that there is another amendment and I have explained that before we can tackle any further amendments we have got to deal with the one that was before the Committee at the time when we suspended consideration of the Clause.

HON P J ISOLA:

Presumably what the Hon and Learned Attorney-General would like me to do is to withdraw my amendment.

MR SPEAKER:

Well, that is not for me to say.

HON P J ISOLA:

I would like to read it first before I withdraw it.

MR SPEAKER:

That is what I am asking that you should do.

HON A J HAYNES:

Mr Chairman, can I ask the Attorney-General a question relating to Clause 3 and that is this question of successors. Do I understand that the law now reads that whoever is in occupation now in a rent restricted dwellinghouse is, for the purposes of this Ordinance, tenant number one and that the Ordinance

proposes that whoever that may be as number one and succession of tenancy rights under Part III will continue to one further tenant whoever it may be unless it be his widow - one now and two more, it is not clear to me, I don't understand that.

HON ATTORNEY-GENERAL:

If I can explain, Mr Speaker, this is very important and I would like to tell the House exactly what my amendment will do because I want everybody to be clear on what it is doing. By virtue of the amendments being proposed to the Fourth Schedule, on commencement, the sitting statutory tenant will be the first statutory tenant for the purposes of this new Bill. If that person dies and has a widow, the property will pass to the widow or the statutory tenancy will pass to the widow, she will be the first successor. Following that through if she dies a member of the family will be the second and final successor under the statutory tenancy. Taking the other alternative, if the first statutory tenant for the purposes of this Bill dies but doesn't have a widow or widower - he doesn't have a spouse - in those circumstances the first successor will be a member of the family. If there are sons and daughters who are members of the family they will have first option if they are full age but if they are not of full age then it will be any other member of the family but that will be the first succession, as it were. Once the person who is holding as the first successor dies, any other member of the family of the original tenant, number one, then has the second succession and, of course, where there are more than one they agree and if they cannot agree then a court decides. The point I want to stress is that in that second situation where there is no widow or widower, on the first succession sons and daughters of full age have first option but that will not be so on the second succession. Once we go past that point the second succession will be available to all the family. That is the effect of what I am going to propose.

HON P J ISOLA:

Mr Chairman, the amendment that the Hon and Learned Attorney-General is proposing meets entirely the points of my amendment so I am withdrawing it.

MR SPEAKER:

Has the Hon Member the leave of the Committee to withdraw his amendment to the amendment. I understand then, of course, that the Hon and Learned Attorney-General will withdraw his original which is before the Committee and wishes to propose a further amendment.

HON ATTORNEY-GENERAL:

Thank you, Mr Chairman, I therefore propose a new amendment which is in Clause 4 to omit sub-clause (4) and substitute the following sub-clause:

"(4) On the death of the tenant under a statutory tenancy (in this subsection called "the first successor") whose right to retain possession by virtue of Part III of this Ordinance arose on the death of the person who had been the tenant under a tenancy to which that Part applied, any member of the family of the first mentioned tenant or (if more than one) the one of them determined or designated in the manner specified in subsection (3), shall be the second successor for the purposes of this section and the right to retain possession by virtue of Part III of this Ordinance shall pass to him".

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

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 15 be amended by omitting all the words after "another Gibraltarian" and to substitute the words "at a rent determined by agreement, the Rent Assessor may approve the transaction and on the letting of the dwelling-house by the landlord, in accordance with the terms of the approved transaction, the rent so determined shall be the statutory rent of the dwellinghouse". Mr Chairman, in moving that amendment I wish to explain that under the existing Section 7A as indeed Members will know better than I do, a key element of the process is that the landlord and a tenant reach a proposed agreement, go to the Director of Crown Lands and he approves the agreement. When I drafted this I thought it was implicit in my draft that it is desired to stress and bring out the need for an agreement more clearly which is what this amendment does.

HON A J HAYNES:

Mr Chairman, as I understand it, the old section 7A used to operate and be binding on all parties until such time as the statutory rent overtook the agreed 7A rent whereafter section 7A will be subsumed by the statutory amount. Is that still

the case with the new section 15 and, if so, can the Attorney-General show me how in fact the agreed rental would be subsumed by the statutory rent as and when the statutory rent overtakes it.

HON ATTORNEY-GENERAL:

Mr Chairman, I think it does that for this reason. Clause 15 says it already but as amended it says that the rent so determined shall be the statutory rent of the dwellinghouse but throughout the whole Ordinance when there are references to statutory rent the whole or Part III contemplates that although you have a statutory rent it can be increased in various ways. As I see it, all that Clause 15(1) does is to say one way you can start off a statutory rent is by having this agreement under this provision but once you have done that you have established a statutory rent and all the provisions of the Ordinance which are related to the review of the statutory rent must surely apply, that is how I see it.

HON A J HAYNES:

Mr Chairman, again, ex abundantia cautela one would like to be assured that a specific provision is introduced to cover this point so that section 15 or the old section 7A would as in the past, Mr Chairman, be wiped off as and when a statutory rent equalled it in the amount and I would like, perhaps, the Attorney-General to consider a further amendment whereby this effect would take place specifically rather than by implication.

HON ATTORNEY-GENERAL:

Mr Chairman, it does actually say that without prejudice to sections 12, 13 and 14.

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

MR SPEAKER:

For the purposes of good order I think there is a further small amendment by the Attorney-General which he might wish to move, at least you had given notice of Clause 15(2)(b) to be amended by the omission of "(ii)". Do you still wish to proceed with that?

HON ATTORNEY-GENERAL:

Yes, I do, Mr Chairman, I move accordingly. I would like to be quite clear on what I am doing and make sure that the House understands and agrees. I suppose we should now start talking about a section 15 tenant but if I can use a more familiar expression of a section 7A tenant. The 7A rental enures for his benefit and for the benefit of certain of his successors to a limited extent and by deleting little "(ii)" what the effect of that will be is that it will ensure for his widow or her

widower and if they don't have a spouse on death it will ensure for the benefit of a member of the family but there won't be a second succession beyond that.

HON P J ISOLA:

That is exactly the amendment I want to bring, Mr Chairman, because it seems to me that the purpose of this section is to enable, in the case of an empty flat, for a landlord and tenant to come to an agreement at a higher rent.

HON ATTORNEY-GENERAL:

If the Hon Member will give way. I understand the principle that he is moving in his amendment. Before we get there, Mr Chairman, as you say for good order we might pave the way by perfecting the first succession.

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

HON P J ISOLA:

I am going to move an amendment, Mr Chairman, under sub-section 15(2)(b) I want to add (4). It says 'any member of his family who succeeds him as the tenant under subsections (1)(b), (2) and (3) of section 3'. I want to add to that '(4)', and I think that has the effect of protecting the second succession. It seems to me, Mr Chairman, that the idea of this tenancy is to allow a landlord and a tenant to come to terms on a rent that is higher than the statutory rent and then once that occurs the tenant is protected under Part III of the Ordinance but I do not see why a distinction should be made between a Gibraltarian who is protected for two generations and paying less rent and not protect the Gibraltarian who has agreed to pay a higher rent to come in and only protect him for one generation. To me it is illogical and I would like to move that in that sub-paragraph (2)(b) we delete the word "and" and add the words "and (4)".

HON ATTORNEY-GENERAL:

I have no comment because I think it is entirely a matter of policy and if it is the wish of the House so be it.

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

HON A J HAYNES:

Mr Chairman, I have a further amendment of a new subclause (3).

MR SPEAKER:

There is notice given by the Leader of the Opposition.

HON P J ISOLA:

Mr Chairman, I beg to move that the Clause be further amended by a new subsection to be numbered (3) to read as follows:- "Where a dwellinghouse to which this part applies has been let pursuant to the provisions of Section 7A of the Landlord and Tenant (Miscellaneous Provisions) Ordinance, the rent fixed under such a letting shall be the statutory rent of that dwellinghouse if that rent shall be in excess of the rent permitted under Section 11 of this Ordinance". The reason for this amendment, Mr Chairman, is that if it is not made, 7A tenancies that have been agreed and certified by the Director of Crown Lands would be caught by the other provisions of the Ordinance and what this seeks to do is to regularise the position of existing Section 7A tenancies.

HON CHIEF MINISTER:

It seems perfectly valid, I think what we are doing is preserving the 7A tenancies that may have been made before the Ordinance, we accept that.

HON ATTORNEY-GENERAL:

I take the point of what is being said, Mr Chairman, but this is really a transitional matter. It would look a little odd putting it. I feel myself that it is covered but if I could look at it in the context of transitional provisions because it would look rather odd to have what is clearly a transitional provision.

HON P J ISOLA:

As long as I have the assurance of the Attorney-General that this would go into the transitional provisions. Is there an amendment to put it in there?

HON ATTORNEY-GENERAL:

Can I put it this way, Mr Chairman. I will either give an assurance that there is no need for it or we will take it on in the transitional provisions.

HON P J ISOLA:

In my mind it is really necessary, that is why.

HON CHIEF MINISTER:

I think we ought to discuss that when we come to the transitional provisions.

HON P J ISOLA:

Can the Clause be left in abeyance then?

MR SPEAKER:

Surely, it will not make any difference to you where it is placed provided it is within the Ordinance and therefore you can make your argument when we come to the transitional provisions.

HON P J ISOLA:

If it is in this section there is no question about it. If it is in the transitional provisions then you will have to refer to the Section 15, Section 11 and all the other sections and I think that this Clause actually stands very much on its own. Why I think it is probably the right place to put it in is because it brings those into this particular Clause for the future as well.

MR SPEAKER:

I would not be prepared to suspend consideration of this Clause because I believe that other Clauses depend on this particular Clause and we are going to find ourselves in the same position as we did last night.

HON P J ISOLA:

I think it has got to be here, Mr Chairman, because Section 15 is a new Section 7A and tenancies of this nature will for the future come under Section 15 and what my amendment seeks to do, apart from bringing them in and not having the position opened up again by a Rent Assessor or a Rent Tribunal because that is not the intention because there has been a certificate from the Director of Crown Lands, is putting them in this lot for the future as well.

HON ATTORNEY-GENERAL:

Mr Chairman, I will give an assurance now that I will move an amendment or agree an amendment in these terms in the Fourth Schedule, it is just a question of presentation.

HON P J ISOLA:

Then I withdraw the amendment because it is going somewhere else.

HON A J HAYNES:

Mr Chairman, I have one further amendment.

MR SPEAKER:

Do you want to read it first?

HON A J HAYNES:

If I may - "Any agreement made under this section shall be

rescinded where the statutory rent as calculated under the First Schedule exceeds the statutory rent agreed to by the parties under this section and substituted by the statutory rent as calculated under the First Schedule".

MR SPEAKER:

It is an amendment to Clause 15 to add a new subclause, I imagine, to be known as subclause (3).

HON A J HAYNES:

Mr Chairman, my concern is that agreements made under the new section 15 will not be automatically overtaken when the statutory rent as calculated by the First Schedule exceeds the section 15 amount. I know that the Attorney-General has referred me to sections 12, 13 and 14 but I don't think that sections 12, 13 and 14 make the necessary proviso. If the proviso were in respect of the First Schedule then I would accept that that is the position. Mr Chairman, if I may warn the House that section 7A in the old Ordinance was designed so that wherever the statutory rent overtook the amount agreed the statutory rent would prevail instead and I am not certain whether in fact this section 15 has the same provision.

HON CHIEF MINISTER:

Do I understand the Hon Member to want to try and introduce into this Clause the existing provisions of 7A which means that it is protected at that rent unless other rents which are controlled crop up and it is not permanent and therefore it is rescinded and then it is merged into the increased rent of the tenant. That is what is existing now, I understand.

HON A J HAYNES:

That is the present position. If a section 7A agreement results in a rent of, say, £10 a week then that rent will be operative until such time as a statutory rent is more than £10 and if the statutory rent is £12 then £12 will apply.

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

Clause 15, as amended, was agreed to and stood part of the Bill.

Clause 25

HON P J ISOLA:

It is a simple amendment, Mr Chairman, and it deletes sub-paragraph (1). I move that Clause 25 of the Bill be amended by the deletion of sub-paragraph (1) and by renumbering sub-paragraphs (2), (3) and (4) as sub-paragraphs (1), (2) and (3). I know this was in the law before but I think it ought to go out. There will be a need for a consequential amendment

to sub-clause (2) where you delete the words "under sub-section (1)".

MR SPEAKER:

Perhaps you should move that all consequential amendments should be carried out.

HON P J ISOLA:

In other words, the purpose of this Clause, Mr Chairman, is to give the Court jurisdiction to decide what is the rent that the sub-tenant should be paying to a tenant and if the tenant has over-charged the sub-tenant or has not done anything, he gets fined for it, he commits an offence and he is fined but not put him at risk of being thrown out of his home because he has been a naughty boy which is what the present Bill suggests. I commend the amendment to the House.

Mr Speaker put the question which was resolved in the affirmative and Clause 25, as amended, was agreed to and stood part of the Bill.

Clause 30

MR SPEAKER:

I think Mr Isola has an amendment which comes prior to the one that the Hon and Learned Attorney-General intends to move.

HON P J ISOLA:

I move in Clause 30 to insert after word "contract" in the first line the words "other than a contract or tenancy to which Section 15 of this Ordinance applies". There is a problem, Mr Chairman, in this one and that is that in Section 15 I have moved an amendment which is now going in the transitional provisions because obviously, it will apply to those as well, the old 7A tenancies, so I hope the Hon and Learned Attorney-General will bear in mind in the transitional provisions to make the old 7A subject to Section 15 so that it links up with this amendment. I commend the amendment to the House.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I move in sub-clause (5) that the words "Notwithstanding any other provision in this Ordinance" be omitted. Those words are superfluous and in view of the scheme of the Ordinance and what I have already said about

Clause 11, I think that they just confuse the issue.

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

Clause 30, as amended, was agreed to and stood part of the Bill.

New Clause 36

MR SPEAKER:

Mr Isola, you gave notice that you wanted to add a new Clause 36. Are you still insisting?

HON P J ISOLA:

I think ex abundantia cautela it ought to go in. I am moving immediately after Clause 35 to insert a new Clause to be numbered 36 and renumber all subsequent Clauses to read as follows:

"36. Notwithstanding the provisions of Section 13 of the Court of First Instance Ordinance the Court shall have jurisdiction to hear and determine any action for the recovery of possession of a dwellinghouse to which this part applies".

Mr Speaker put the question which was resolved in the affirmative and New Clause 36 was agreed to and stood part of the Bill.

Clause 42

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 42(3)(a) be amended by omitting the figures '3' and '6' and substituting the figures '6' and '12' respectively. I can quickly explain this. This requires at present at least three month's notice and not more than six month's notice to be given for the termination of a tenancy which has ceased to be one to which Part 4 applies, business premises apply. My understanding is we want in every case at least six months notice and therefore I am proposing that we change the figures '3' and '6' to '6' and '12'.

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

Clause 42, as amended, was agreed to and stood part of the Bill.

Clause 48

HON ATTORNEY-GENERAL:

Mr Chairman, there is a very lengthy amendment to be read.

In Clause 48(2) to omit everything after the word "unless" in the third line and to substitute the following....

MR SPEAKER:

May I ask whether it is necessary for the Hon and Learned Attorney-General to read the whole of the proposed new Clause? Members have got a written copy in front of them and I don't think we wish to have it read.

HON P J ISOLA:

Mr Chairman, the only thing is that I have got an amendment prior to the Hon and Learned Attorney-General's amendment.

MR SPEAKER:

Your amendment is to Clause 48(3).

HON P J ISOLA:

The Hon and Learned Attorney General's amendment relates in the case of a redevelopment, doesn't it? It relates to both, I see.

MR SPEAKER:

There is no need for you to read the amendment that you proposed, you can speak on it most certainly.

HON ATTORNEY-GENERAL:

Thank you, Mr Chairman. This amendment is concerned with the rights of a tenant, an out-going tenant; where the landlord has successfully opposed the grant of a new tenancy in one of two cases; either because he wants it for re-development, which is the first case, or that he wants it for his own use, which is the second case, and the effect of the amendment I am proposing plus related amendments that will follow, is this and I would like to take it in relation to each of those situations, if I may. Dealing first with both cases, it will apply in both cases, I would like to be sure that this is understood, it will apply in both cases, I am sorry I have to start again, Mr Chairman. The ground of opposition, the ground on which the landlord can oppose in each of those cases will depend on him having been the landlord for five years, that is the first point I want to be clear on. Taking the first case, the re-development situation, what the amendment will say is that where there is to be re-development, and that alone is the reason that the Court has not granted a new tenancy to the out-going tenant, if the landlord re-builds or re-constructs the property into one or more new developments or new properties, the tenant will have an option at his own election. He can either elect to have secured to him a place within that new development which is of a comparable standard to that which

he had before he left or, at his option, he can take compensation in accordance with the Fifth Schedule. That is the choice open to him. In the second case, the case of opposing a tenancy for one's own use because one wants it for one's own use, the landlord, in effect, will have the option, the tenant won't have an option, the landlord has to do one of two things; he either has to provide suitable alternative accommodation elsewhere or he has to pay compensation in accordance with the Fifth Schedule but the tenant doesn't say which of those two is to happen, it is a matter for the landlord in effect but he must comply with one of those two things. That is the effect of what the amendment says and I hope I have made it clear and I just want to pick up one or two ancillary matters. In addition to that, and I am looking ahead, Mr Chairman, to a later clause but if I can just refer to it. In addition to that, in either of those two cases, the tenant will be entitled to a form of compensation, it is described as compensation, removal and refurbishing costs under Clause 55. I just wanted to draw attention to that. That is the effect, in broad terms of the amendment, Mr Chairman.

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

HON P J ISOLA:

Mr Chairman, the amendment meets partly what I said on this Clause but there are two points I want to raise. The new sub-paragraph (a)(i), the question of when there is a development, the words "as approximates in area and situation that part of the premises comprised in the current tenancy", I agree with that principle completely but we have to be practical, I think the word as 'reasonably' approximates should be put in. The reason why I say this is that you can have a re-development where you have got a large shop, say, the size of this room and the re-development is going to divide this room into four shops. If I have got the whole of this area, what is the point of re-developing? There won't be a re-development. That is why I suggested and I said I had not had time to draft an amendment on this particular one because of the short notice and so forth. I think there must be in that Clause a question of reasonableness and I think there must also be a reference to a Tribunal or a Court as to what is because otherwise you get a situation where somebody re-develops a building and it is going to divide the ground floor into five or six shops which only had, say, two before. If the two insist on their rights then that is all you have got, two, so that there has to be introduced into that, I don't know whether just the words "as reasonably approximates in area and situation" or "as reasonably approximates having regard to all the circumstances in area and situation". I think there is a need in practical terms to be flexible on that one. The other thing on the amendment, the other point I make, Mr Chairman, and that I am afraid is of much greater substance, and that is that I notice that the amendment of the Hon and Learned Attorney-General does not provide for a situation where a

landlord has paid compensation to a tenant because he wants it for himself and then decides not to have it for himself and sells it to somebody else. That is what was contained in my amendment to Clause 48(3) which disappears now. I amend 48(3) to prohibit the landlord from creating a new tenancy for a period of three years without first offering that tenancy to the tenant he has dispossessed otherwise, Mr Chairman, there can be wholesale abuse. A landlord can pay a tenant twelve years compensation and get somebody else who is going to come in the next day to pay twenty-four years. All that is happening is there is a price at which a landlord can get rid of a tenant. The intention, as I understood, for the Government introducing the question of compensation was to try and strike a balance into the fairness between the landlord and the tenant so that the landlord could in certain circumstances get the premises back for himself if he genuinely wanted to run a business. I want to move an amendment.

MR SPEAKER:

If you want to move an amendment you have got to have an amendment to the amendment.

HON CHIEF MINISTER:

In the first place, with regard to the question of reconstruction, the section now reproduces exactly the previous section in the previous Ordinance and it works well, in my experience it works very well, and it leaves it in the end that if there is failure of agreement between the parties this may be determined by the court. With regard to the other one perhaps the Hon Member will look at Clause 70 of this Bill as it is printed. I will leave it to the Attorney-General to explain it.

HON ATTORNEY-GENERAL:

Can I also explain further because although under the existing law there is a safeguard for the landlord who goes back on his word, the scheme of what we are proposing is that at the time when a landlord successfully obtains or recovers his premises because he says he wants it for his own use, there are only two options; one is that the out-going tenant gets satisfactory alternative accommodation and the other is that he gets compensation at the enhanced rate set out in the Fifth Schedule, it is not an oversight, that is the policy behind this new proposal. It is not the same thing as an option to go back into the premises but there is in fact Clause 70, a Clause which is a Clause under which somebody can obtain additional compensation if they can show additional loss where there has been misrepresentation, that of course comes from the present Ordinance as well. That is what we are trying to do. In short, what I am saying is we are not trying to cover the situation which concerns the Hon and Learned Leader of the Opposition.

HON P J ISOLA:

Mr Chairman, that does not meet the point at all because what Section 70 does is merely to give more compensation and I cannot see many tenants, a person who has been in occupation of premises for twenty years who gets thirteen years compensation, I cannot see him getting much more compensation from a Court. But that is not the point, Mr Chairman, the point of principle is that a landlord should only be entitled to get possession on the grounds that he wants it for himself when he really wants it for himself.

HON M K FEATHERSTONE:

If the Hon Member will give way. Does the Fifth Schedule say that there is a period during which the landlord may not re-let without giving first option to the tenant under section 48(3)?

HON P J ISOLA:

That is going in the amendment. In the proposed amendments to the Fifth Schedule that goes away completely in the amendments being moved now.

HON ATTORNEY-GENERAL:

Mr Chairman, the short answer to the Hon Member's point is that the option is not one of the options. In these proposals we are changing the law, we are proposing to change the law, we are eliminating that as one of the remedies, we are saying either you give satisfactory alternative accommodation or.....

MR SPEAKER:

That is accepted but what Mr Isola is saying is that there should be provision in the Ordinance to compel the landlord who has dispossessed a tenant on the grounds that he wants it for his own use that he is going to use it for himself and he is not going to re-let it. Is that correct, Mr Isola?

HON P J ISOLA:

Absolutely, Mr Chairman, what we are saying is that if a landlord gets possession on the grounds that he wants it for himself, then he should not be able to let it out to anybody else without first offering it back to the tenant and the amendment in my name and I am going to move it as part of this Clause because.....

MR SPEAKER:

I think it might be easier, Mr Isola, if you feel strongly about it, if you put an amendment to this amendment.

HON P J ISOLA:

I am afraid it is not so simple, Mr Chairman, because I was amending Clause (3) in the Bill which is very simple but now.....

MR SPEAKER:

This is a Clause which we can defer without affecting all the other Clauses, perhaps we might leave it until the end.

HON P J ISOLA:

It is just by adding new sub-clauses. I can add the sub-clause, I can read it out very easily what it is but it will take me a bit longer to write it out.

MR SPEAKER:

That is why perhaps we should defer further consideration of this Clause which I don't think will affect any other of the Clauses that we still have to deal with so as to give you time to prepare an amendment to the amendment.

Clause 55

HON ATTORNEY-GENERAL:

Mr Chairman, I move that sub-clause (1) be amended by inserting after the word "compensation" the words "(in addition to any amount payable under sub-section (2) of section 48)" so that 'paragraph (b) of' is deleted because that is consequential.

MR SPEAKER:

I am not with you just yet. You gave notice that you wanted to amend the Clause in sub-clause (1) to insert after the word "compensation" the words "(in addition to any amount payable under....", you want to amend what?

HON ATTORNEY-GENERAL:

I would like to take out the words "paragraph (b) of"

MR SPEAKER:

'Under sub-section (2) of section 48'.

HON ATTORNEY-GENERAL:

And then to omit paragraph (a) of sub-clause (2) and to re-letter paragraphs (b) and (c) as (a) and (b).

Mr speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 55, as amended, was agreed to and stood part of the Bill.

Clause 57

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 57(2) be amended by inserting before "section 55" the words "subsection (2) of section 48 or,".

HON P J ISOLA:

Mr Chairman, I am sorry to put the cat among the pigeons but these were the amendments that were left over because of 48. Let us suppose the House accepts my further amendment to 48, I think that will require further amendments to 57, restrictions excluding provisions to Part IV because this relates to agreements that seek to exclude particular sections of 48 but supposing the House agrees with my amendment to Section 48 and that might need, surely, consequential amendments to 57.

MR SPEAKER:

So you are suggesting that we should leave Clauses 57 and 58.

HON P J ISOLA:

Or agree to come back to them if my amendments are accepted.

MR SPEAKER:

Are you now in a position to deal with your amendment to Clause 48?

HON P J ISOLA:

I can't because I am listening what he is saying. I just have to write it out, it is quite simple but the trouble is I haven't been able to do it because I am listening to what the Hon and Learned Attorney-General is saying.

MR SPEAKER:

Let us hold on, let us go back to Clause 48 otherwise it is going to be a bit messy. Please put your amendment in writing.

Clause 48

HON P J ISOLA:

Mr Chairman, I move an amendment to the amendment by adding a new sub-paragraph (5) to read as follows:

"(5)(a) When the landlord has opposed an application on the ground specified in paragraph (e) of subsection (1) and the court has not made an

order for the grant of a new tenancy, it shall not be lawful for the landlord within a period of five years commencing with the date of the termination of the tenancy to create any new tenancy or letting in respect of the holding or any part thereof unless he has first offered to the former tenant the option of a new tenancy of the holding in accordance with the provisions of Sections 51, 52 and 53;

- (b) the option shall be exercised within a period of 3 months from the communication to the former tenant of such option".

What I say is that the chap who genuinely wants a business premises for himself is going to have to think a lot about it because he has got to pay a lot of money but if it is the case of somebody who is speculating in property it may be worthwhile paying twelve years and then selling it to somebody else and getting twenty-four. That is the amendment I am proposing that they should not be able to let it for a period of five years. My own feeling was of having the alternative option of allowing the tenant to purchase the premises as an alternative to the landlord getting possession but I am afraid that in the time limited to me I have not been able to draft it and I think it is a great pity because I think that that should be done. I commend this amendment.

HON ATTORNEY-GENERAL

I only have one comment, Mr Chairman. I can see nothing wrong with that but what is the consequence if he does offer it? What is the intended consequence if he does offer it? Is the intended consequence of him breaching it simply that it is illegal?

HON P J ISOLA:

I think that if the landlord ignored it the former tenant can take him to court.

HON ATTORNEY-GENERAL:

For an injunction or whatever.

HON P J ISOLA:

Not only for an injunction but the letting by the landlord to another tenant is unlawful.

Mr Speaker put the question in the terms of the Hon P J Isola's amendment to the amendment which was resolved in the affirmative and the amendment to the amendment was accordingly passed.

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

Clause 48, as amended, was agreed to and stood part of the Bill.

Clause 57

HON ATTORNEY-GENERAL:

Mr Chairman, I am sorry to keep asking you this but I have to ask you to bear with me on this and the next provision because they are consequential amendments. In Clause 57(2) I move that before the words "section 55" the words "subsection(2) of section 48 or,".

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

HON ATTORNEY-GENERAL:

Clause 57(3), Mr Chairman, to insert before the words "section 55" the words "subsection (2) of section 48 or".

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

Clause 57, as amended, was agreed to and stood part of the Bill.

Clause 58

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this be amended in sub-clause (2) by inserting before "section 55" the words "subsection (2) of section 48 and", and also to omit the words "that section" and substitute "those sections".

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 58, as amended, was agreed to and stood part of the Bill.

Clause 65

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended in sub-clause (2) by omitting everything after "in accordance with" and substituting "subsection (2) of section 48 and section 55".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I move in sub-clause (3) to omit "section 55" and substitute "subsection (2) of section 48 and section 55".

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

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

Clause 66

HON ATTORNEY-GENERAL:

Mr Chairman, I move that sub-clause (1) be amended by omitting "section" and substituting "subsection (2) of section 48 and section 55", and also in sub-clause (2) to omit "section 55" and substitute "subsection (2) of section 48 and section 55".

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 66, as amended, was agreed to and stood part of the Bill.

Clause 67

HON ATTORNEY-GENERAL:

Mr Chairman, I move that sub-clause (2) be amended by omitting "section 55" and substituting "subsection (2) of section 48 and section 55".

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

Clause 67, as amended, was agreed to and stood part of the Bill.

Clause 68

HON P J ISOLA:

I think what I have to do here is to withdraw it because I think both the points made in my amendments have been incorporated into Clause 2 in the new sub-clause (3) but I am not withdrawing it yet because my Hon and Learned Friend Mr Haynes would like to ask something about it.

MR SPEAKER:

We haven't done the section so he can ask what he likes irrespective of what you do with your amendment.

HON P J ISOLA:

But the reason why I don't withdraw it is because he has doubts on it so he would like to be reassured.

HON A J HAYNES:

Mr Chairman, I appreciate that the new sub-section (3) to Clause 2 does refer to a material transfer being covered by way of share transfer but does this cover the creation of a new company so that company X which is the present tenant can make an assignment by way of mortgage to a bank, in effect, by doing the following, by creating a new company called X-1983 and then having a debenture on that new company and that new company would, in effect, do all the work and have all the powers that company X has with specific provisos?

HON ATTORNEY-GENERAL:

The effect of the amendment to new Clause.2(3) is that any sort of assignment whatsoever unless it is a bona fide assignment by way of security, would amount to a transfer. So I take the situation that has just been described as not being bona fide insofar as the element of proper security is concerned.

HON A J HAYNES:

What is the effect in the present amending Clause 2 of other than a bona fide transfer by way of security?

HON ATTORNEY-GENERAL:

The general rule is that any transfer at all amounts to a change of ownership but there are exceptions. One exception is if it is on succession on death; a second exception is if

it is a bona fide transfer by way of security and a third exception is if he gets the leave of the court.

HON A J HAYNES:

Doesn't that entitle a tenant therefore to assign the lease to a bank by way of security and that is allowed?

HON ATTORNEY-GENERAL:

As long as it is genuine. In the example that was given I took that to be a rather artificial loan.

HON A J HAYNES:

Does this mean, therefore, Mr Chairman, that a lease which is granted and there is a proviso against assignment by way of mortgage, that that assignment is no longer binding on the party, that provision?

HON ATTORNEY-GENERAL:

We are only saying what the position is insofar as the purposes of this Ordinance are concerned but if a landlord and a tenant have seen fit to negotiate a lease which restricts the ability of the tenant to mortgage under the lease all interest that is a different matter.

HON A J HAYNES:

This section, section 68(1) says: "but notwithstanding any agreement to the contrary" so in fact any agreement to the contrary holds.

HON ATTORNEY-GENERAL:

I missed the point he was driving at.

HON A J HAYNES:

Mr Chairman, my Learned Leader has told me that it is quite the opposite, the new section 68 will ensure that everybody can sub-let by way of mortgage unless that "notwithstanding any agreement to the contrary" clause is removed.

HON ATTORNEY-GENERAL:

Part IV it is a condition that you must get the landlord's consent before you make any assignment which would include a

mortgage, obviously, an assignment or a mortgage, but it is also saying that he cannot withhold it unreasonably.

MR SPEAKER:

Mr Isola, will you withdraw your amendment?

HON P J ISOLA:

In other words, you cannot stop an assignment. The effect of this new clause is to give the tenant the right to assign, that is what it virtually boils down to.

MR SPEAKER:

Unless it is an unreasonable assignment.

HON A J HAYNES:

Surely, Mr Chairman, this is proposed so that the tenant may, if he wishes to stop his practice or his business or whatever, to be entitled to sell to somebody else who is going to do a similar business to himself without hindrance from the landlord. That was, I think, the intention behind this but if it is extended so that the tenant can jeopardise the title to the property by way of assignment, surely that.....

HON ATTORNEY-GENERAL:

With respect, how can he, the tenant cannot mortgage anything more than he owns.

HON P J ISOLA:

Mr Chairman, I think the Hon and Learned Mr Haynes is right. As I see it here, the landlord cannot withhold consent to the assignment but he can withhold consent if the assignee does not intend to carry on the same kind of business. Therefore in the case of a mortgage he can withhold consent because the bank is not going to carry on the business of the tenant.

MR SPEAKER:

It is an assignment by way of security, isn't it?

HON P J ISOLA:

It doesn't matter. If there is an absolute covenant in the lease against assignment and the bank comes under this section or the tenant comes to assign to the bank by way of security,

the landlord can withhold his consent under this section. It may be the right thing, I don't know. The landlord cannot stop the tenant selling the business but I think he can stop him assigning it by way of mortgage, it may not be a bad thing, I don't know, but I think that is the legal effect of that clause as drafted. I am going to withdraw my amendment, Mr Chairman, I am perfectly satisfied that the provisions of Clause 2(3) cover the problems that is dealt with in this section.

Mr Speaker put the question which was resolved in the affirmative and Clause 68 was agreed to and stood part of the Bill.

Clause 69 was agreed to and stood part of the Bill.

Clause 75

MR SPEAKER:

Mr Isola, you had two amendments to Clause 75.

HON P J ISOLA:

Have they been met?

HON J B PEREZ:

Yes, under section 66, sub-section (2).

HON P J ISOLA:

I am going to withdraw these amendments, actually, Mr Chairman, they are more complicated than I thought.

Mr Speaker put the question which was resolved in the affirmative and Clause 75 was agreed to and stood part of the Bill.

First Schedule

HON ATTORNEY-GENERAL:

Mr Chairman, I move in paragraph 1 to omit the words "other than a communal services tenement,". They are unnecessary because the table which follows shows which we are referring to in each case. My second amendment, Mr Chairman, is to omit paragraph 3 and substitute the following paragraph:

"3. In the case of a dwellinghouse that is let furnished, the statutory rent shall be increased for the period of 8 years following the date on which the furniture is provided, by one eighth of the value of the furniture on the date that it is so provided".

The reason for that, Mr Chairman, is to improve the intention which is that if you let a house furnished you can increase your rent, I am talking about rent controlled houses, you can increase your rent. The furniture is given a notional life of eight years so you can increase it by one eighth of its value for each of those eight years but you cannot take advantage of it once it has been written off and I think the way it is worded it is clearer.

HON P J ISOLA:

What I don't understand about this is what happens if different pieces of furniture are added to the furnished letting? It is said here, Mr Chairman, that it is for the period of 8 years following so therefore there will be no incentive in a landlord providing new furniture after the rent has been fixed for eight years, that surely cannot be right.

HON ATTORNEY-GENERAL:

It is quite the opposite, surely, Mr Chairman, if the landlord puts some new furniture he can assess the cost of it and amortise that over eight years, at the end of eight years he cannot continue doing that so there is the incentive to buy new furniture.

HON P J ISOLA:

We are not happy with this particular clause because I do not see it practical. I prefer it as drafted.

HON ATTORNEY-GENERAL:

The problem with it as drafted is that it is not clear. The intention is to be able to recover the cost of the furniture.

HON P J ISOLA:

So what happens at the end of eight years? At the end of eight years what is the rent if the furniture is still there?

HON ATTORNEY-GENERAL:

At the end of eight years the tenant would be entitled to apply for a reduction.

HON P J ISOLA:

Mr Chairman, I think and we have been trying throughout this Bill to strike a balance between landlords and tenants and that is almost an impossible task, but we have moved a number of amendments on this side of the House that have improved considerably the position of the tenant especially in business tenancies but here, I think, the question of amortisation in a furnished dwelling over a period of eight years, I know this is a recommendation of the Select Committee, is high and I think that the House ought to consider a shorter period than eight years. I cannot imagine in a furnished flat that is let furniture lasting that long and I think there ought to be an amendment that there should be a reduction of that period of eight years to six.

MR SPEAKER:

Are you proposing an amendment to the amendment?

HON CHIEF MINISTER:

This is a recommendation by the Select Committee.

MR SPEAKER:

In other words, an amendment to that effect would not be acceptable. Do you wish to move it then?

HON P J ISOLA:

Mr Chairman, I see that the Government are not prepared to go along with an amendment so I won't move it.

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment and on a vote being taken the following Hon 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

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

The First Schedule, as amended, stood part of the Bill.

Second Schedule

HON A J HAYNES:

The effect of Clause (g) in the Second Schedule, Mr Chairman, the part in brackets. I understand, of course, that this is not going to affect landlords by way of succession. Does the Attorney-General have any views on the effect in terms of the saleable value of pre-war dwellinghouses in respect of this?

HON ATTORNEY-GENERAL:

I am sorry, I am not able to give a reply.

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

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

Fourth Schedule

MR SPEAKER:

There are two amendments to the Fourth Schedule. I think the Hon and Learned the Attorney-General wishes to substitute the whole of the Fourth Schedule for a new Fourth Schedule and the Hon Mr Isola has given notice of an amendment for the adding of a new clause to be numbered (4). There is already a clause 4 in the Schedule or there will be if the amendment by the Hon and Learned the Attorney-General is carried. I would suggest that the Hon and Learned Attorney-General moves his amendment and then perhaps if Mr Isola so feels he can amend it.

HON P J ISOLA:

Mr Chairman, I hope he moves it and explains it all because I would like to read it.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the Fourth Schedule be repealed and the following Fourth Schedule substituted. Would you wish me to read it?

MR SPEAKER:

I don't think there is any need, I think all Members will agree that they have a copy before them.

HON P J ISOLA:

Mr Chairman, what I hadn't realised is that it is 1 o'clock and I would certainly be grateful if we could carry on with this after lunch so that I can look through it and see how far it meets the point and I think the Hon and Learned Attorney-General will also want to draft an amendment which he said he would put into the Fourth Schedule earlier on.

HON ATTORNEY-GENERAL:

I am ready with mine, Mr Chairman.

HON P J ISOLA:

If we could have that amendment as well and perhaps consider it over lunch.

MR SPEAKER:

We will then recess until 3 o'clock this afternoon.

The House recessed at 1.00 pm.

The House resumed at 3.10 pm.

MR SPEAKER:

I will remind the House that we are still in the Committee Stage of the Landlord and Tenant Ordinance and that we are just about to deal with the Fourth Schedule. I am not quite clear did the Hon and Learned Attorney-General propose the amendment before we recessed for lunch?

HON ATTORNEY-GENERAL:

I move, Mr Chairman, that the Fourth Schedule be repealed and substituted by the following Schedule.

MR SPEAKER:

If it is exactly as circulated I feel sure that the House will dispense with the need of reading it.

HON P J ISOLA:

I think before the Hon and Learned Attorney-General proposes it, I think, Mr Chairman.....

MR SPEAKER:

Let him speak in favour of his amendment.

HON P J ISOLA:

The thing is that I have an amendment prior in time to the one submitted by the Attorney-General.

MR SPEAKER:

I don't think so because they are both dated the 12th and I do believe I got the Attorney-General's amendment first.

HON P J ISOLA:

All I wanted to do is to withdraw mine because I think this is a later amendment. I just want to withdraw mine, Mr Chairman, because my amendment is met by one of the amendments in the Schedule so I would like to withdraw mine.

HON ATTORNEY-GENERAL:

Mr Chairman, the purpose of the new Fourth Schedule is to deal with transitional provisions on the commencement of the new Ordinance and Members may recall that when we looked at Clause 83 we omitted certain material that was there, all the transitional provisions are being brought into the Fourth Schedule. It is divided into three parts: Transitional provisions which relate specifically to domestic purposes; the second part is transitional provisions which relate specifically to business premises and the third part is general transitional provisions, Mr Chairman, and the Hon and Learned Leader of the Opposition did desire an explanation of the various provisions so, briefly, I propose to go through them. Paragraph 1 is intended to make it clear that on the commencement of the new Bill the sitting tenant, if I may use that phrase, the sitting statutory tenant under Part III, domestic premises, will be the first statutory tenant. Paragraph 2 is

a transitional provision relating to the sinking fund. I would imagine that most properties on the commencement of the Ordinance will already be tenanted and in those circumstances what is required is that the landlord keeps one third of the recoverable rent for the first two years and thereafter he is required to keep 15% of that rent. The third paragraph is also transitional and deals with the case where improvements or structural alterations have been made after 1945 which is the cut-off date for control but before the commencement of this Ordinance and in those circumstances owners have 18 months from commencement in which to apply either under Section 13 or under Section 22. Perhaps it is not strictly for me to give notice, Mr Chairman, but in view of the points raised by the Opposition, one of my colleagues will be moving an amendment to this amendment to add a further transitional provision in the part dealing with domestic premises to deal with Section 7A, what used to be a Section 7A situation. As far as the business premises are concerned, the intention of paragraph 4 is this, that we have had a moratorium for some time. I think my own view is that all the moratorium does is to defer the operation of notices to increase rents so that people who have, especially under Part IV, gone through the process of requesting a new tenancy or applying for a new tenancy and have taken that process through, may in fact have reached the stage where their rents are determined but from a future date, namely, when the moratorium ceases but there may be, in fact, we believe there are some people who have construed the moratorium so as not to take action until it is over and the effect of what this is doing is to say where that has happened, where somebody may have taken that attitude, erroneously or otherwise, in those circumstances the time will not run until the moratorium ceases so it holds everything in suspension, as it were, when the moratorium ceases then the people concerned must protect their interests by making an application or making a request for a business tenancy or giving in notice. That is the intention of that paragraph.

HON P J ISOLA:

Before the Hon and Learned Attorney-General carries on, is there a typing error there in the fourth line from the bottom of that business premises - 'the time for taking over a step'? Something seems to have been left out.

HON ATTORNEY-GENERAL:

It should be 'such'. Paragraph 5 in the general provisions is intended to do this. There will be cases where proceedings, applications or other proceedings are current before the Rent

Tribunal or a Court at the time when this Bill becomes law and what we are giving power to do is to enable those applications to be disposed of under the old provisions. In other words, the Court or the Tribunal or the authority shall have full power to complete what it started. I think that is a normal and a necessary power to have. Finally, Mr Chairman, paragraph 6, this is intended to meet the points which have been raised by the Opposition that we may at the outset at least and perhaps for some indefinite period, need more than one Rent Assessor so this gives the Governor the power, if he feels it desirable to do so, to appoint additional Rent Assessors on a temporary basis. Mr Chairman, the references to section 6 should be to section 5.

MR SPEAKER:

Yes, I had amended that before you moved it.

HON ATTORNEY-GENERAL:

So those are the purposes, Mr Chairman, of the transitional provisions as drafted.

HON P J ISOLA:

Mr Chairman, there is an amendment going to be moved to this, I believe.

HON J B PEREZ:

I have an amendment in connection with section 7A on the Attorney-General's amendment. Perhaps I can take the opportunity now at this stage, Mr Chairman, I think you have already been given notice of this, have you not? The amendment is to amend the Attorney-General's amendment by inserting after paragraph 3 but before the cross-heading "Business Premises" the following:

- "4. Where a dwellinghouse to which Part III of this Ordinance applies was let, immediately before the commencement of this Ordinance, pursuant to section 7A of the former Ordinance, and the statutory rent immediately before the commencement of this Ordinance was greater than it would be if calculated under section 11 of this Ordinance, that greater rent shall on the commencement of this Ordinance be the statutory rent in respect of the dwellinghouse".

I think this is the point that was made by the other side this morning. Let me say that although the amendment is being moved I am of the view, in fact, that really it is unnecessary because it goes without saying but, be that as it may, one ought to play safe in this particular case and therefore I so move.

Mr Speaker proposed the question in the terms of the Hon J B Perez's amendment to the amendment.

HON J BOSSANO:

I am not quite sure what, in fact, the Ordinance says any more, Mr Chairman, but if it does say what it said originally in respect of section 7A, is it not a fact that the re-introduction of section 7A in the new Ordinance is more limited than it was under the old Ordinance because of the presence of the Rent Assessor, that is, under the old Ordinance there was no ceiling to how high somebody could be induced to pay? Yes or no, some people are saying no and some people are saying yes?

HON CHIEF MINISTER:

It has to satisfy the Surveyor and Planning Secretary and he took into account whether the rent had any relation to current rent demands at that level.

HON J BOSSANO:

We all know, Mr Chairman, that under section 7A the situation has been that people desperate for a house have been induced to sign pieces of paper accepting very high rents. Does the re-introduction of the proviso that the Hon Member is moving in his amendment have the effect of removing any protection from people in those circumstances or not?

HON J B PEREZ:

It doesn't remove any protection. My own personal view is that in practice it will be of benefit to the tenant because the Rent Assessor is now involved.

HON J BOSSANO:

Hasn't the Hon Member said in the amendment that he has read, perhaps I haven't understood him correctly, but I have understood the amendment to say that in premises where there was already in existence a rent pursuant on section 7A of the old Ordinance, that rent is the statutory rent and there is nothing the tenant can do about it. Isn't that what the amend-

ment says? Mr Chairman, let us say that there is now a dwelling which under section 7A has got a tenancy agreement where the tenant is paying £100 a week, for the sake of argument, does the effect of the new amendment mean that that £100 a week will now be the statutory rent or not or can in fact the tenant come back and say: "Since there is now a new Ordinance, I want to re-negotiate section 7A and bring the Rent Assessor into it"?

HON J B PEREZ:

That becomes the new statutory rent if it was by agreement.

HON J BOSSANO:

Then I am saying, Mr Chairman, that since we all know that the old section 7A effectively produced rents where the tenant was theoretically the willing party but in fact trapped in a situation of having little choice either to accept that rent or not get the accommodation, the effect of the amendment is that people in those circumstances will not be able to get any protection from the new law.

HON ATTORNEY-GENERAL:

If I can clarify the position. Under section 7A, under the present system, it is the Director of Crown Lands who has to approve the transaction. I think there are one and a half material changes, if I can put it that way. In the first place it is the Rent Assessor who will have to do so and one would hope, I think, and this is in no sense a reflection on anybody else, but one could hope that a man whose specific job is to assess rents would be, can I put it this way, would be as well equipped as anybody to judge what is a reasonable rent because then I go to the second leg of it which is that in the new Bill, but not in the present Ordinance, he approves the rent which he considers to be reasonable. I would call it half a point, I wouldn't call it more than that.

HON J BOSSANO:

I accept entirely what the Hon and Learned Attorney-General is saying but it seems to me that what he is saying is in support of my argument because if I have understood the amendment right, what the amendment says is that where there is a rent agreed under section 7A of the old Ordinance, where there was no Rent Assessor, then that is now the new statutory rent. If that is now the new statutory rent then the tenant will not be able to argue that the old rent should be reduced by the Rent Assessor because it will be automatically the new statutory rent.

HON ATTORNEY-GENERAL:

That is correct, Mr Chairman. The transitional provisions doesn't cover that point and from a technical point of view there is no reason why it should not but it doesn't affect it.

Mr Speaker put the question in the terms of the Hon J B Perez's amendment to the amendment and on a vote being taken the following Hon 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 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 Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon J B Perez's amendment to the amendment was accordingly passed.

HON P J ISOLA:

Mr Chairman on the amended motion, I wonder whether clause 5 is quite correct?

HON J B PEREZ:

Mr Chairman, I also take the opportunity to move a further amendment, following the amendment that we have just passed, by having a new paragraph 5 in the Second Schedule.

MR SPEAKER:

We have already passed the Second Schedule.

HON J B PEREZ:

The idea was to introduce it under the Fourth Schedule but it is better under the Second Schedule.

MR SPEAKER:

Well, we cannot amend the Second Schedule when we are dealing with the Fourth Schedule, let us take a vote on the Fourth Schedule first.

HON ATTORNEY-GENERAL:

Can I clarify, Mr Chairman, I think what we want to do is a purely consequential amendment, in view of the fact that we have amended the original amendment, to add a new paragraph. All we need to do at this stage is also to consequentially renumber all the paragraphs in the Fourth Schedule because we have added a new paragraph.

MR SPEAKER:

No, with respect, the amendment which the Hon Mr Brian Perez proposes is in respect of the Second Schedule and that is what I am saying.

HON J B PEREZ:

What I want to do is to delete the words "notwithstanding being a landlord who has become landlord by purchasing the dwelling-house or an interest therein after the coming into operation of this Ordinance....."

MR SPEAKER:

But where do those words appear?

HON J B PEREZ:

They appear in the Second Schedule.

HON ATTORNEY-GENERAL:

Mr Chairman, if I could help because I am a draftsman and I fear I haven't made the drafting clear. I think all that remains to be done on the Fourth Schedule, because we have added a new paragraph we have already added a new paragraph to the first amendment is simply to consequentially re-number the other paragraphs.

MR SPEAKER:

That we have done already. All that remains to be done now is to consider the Schedule as amended by the Hon and Learned Attorney-General and as amended by Mr Brian Perez.

HON P J ISOLA:

Mr Chairman, that clause 5, the old clause 5, it says that when any application is pending by the court then the court can still hear it once the new Ordinance comes into effect, notwithstanding section 82. This doesn't mean, surely, that if there is an application by a landlord, for example, to obtain possession of business premises pending now because he wants it for himself, the new law comes into force and his application is then heard by the court and if he succeeds he only pays the old compensation. Shouldn't it be notwithstanding section 82 of this Ordinance but subject to the other provisions thereof, or something. I am just a bit worried that the court might form the view that any pending application must be dealt with in accordance with the law as it existed prior to the commencement of this Ordinance, that would be disastrous.

HON ATTORNEY-GENERAL:

The intention is in paragraph 5(c) "the application or proceeding could have been brought under this Ordinance". In other words, what it is trying to achieve is that if it has already been started before one body I think the most likely body actually is the Rent Assessment Tribunal and they have part heard the matter, then if that matter could have been brought under the new Ordinance even though it would have been brought to the Rent Tribunal and not to the Rent Assessment Tribunal, the Rent Assessment Tribunal can dispose of it, as it were.

HON P J ISOLA:

I appreciate the point. They finish the cases but they must determine it, surely, in accordance with the provisions of this Ordinance. You say here 'notwithstanding the repeal of section 82'. Shouldn't it be 'notwithstanding section 82 of this Ordinance but otherwise in accordance with the provisions of this Ordinance'. Could I then move that, Mr Chairman?

MR SPEAKER:

What do you want to move?

HON P J ISOLA:

After the word "Ordinance" in the third line from the end of paragraph 5, insert the words "but otherwise in accordance with the provisions of this Ordinance".

HON ATTORNEY-GENERAL:

Could I make a suggestion to the Hon Member. A better amendment, I think, could be to continue to have jurisdiction to hear and determine it, simply "in accordance with the provisions of this Ordinance".

HON P J ISOLA:

So we delete the words "as if this Ordinance had not been passed". Then I move then that the last few words, Mr Chairman, "as if this Ordinance had not been passed" be deleted and substituted by the words "in accordance with the provisions of this Ordinance".

Mr Speaker put the question in the terms of the Hon P J Isola's amendment to the amendment, which was resolved in the affirmative and the amendment to the amendment was accordingly passed.

Mr Speaker then put the question in the terms of the Hon Attorney-General's amendment, as amended, and on a vote being taken the following Hon Members voted in favour:

The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
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 B Traynor

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon Major F J Dellipiani

The Hon Attorney-General's amendment, as amended, was accordingly passed.

The Fourth Schedule, as amended, stood part of the Bill.

Fifth Schedule

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the Fifth Schedule be omitted and the following Schedule substituted as specified on the notice I gave dated 12th December. In consequence of the amendments to section 48 that were made this morning, Mr Chairman, and by your leave, there are two very minor alterations that should be made to references. The first is in Part II, paragraph 2(b). It would be accurate because of what has happened before to delete little (b) and little (2) so it is simply "48(2)". Similarly in the third column of the Table - "Compensation payable under Section 48(2)". Finally in clause 4 it should again be a reference now simply to "48(2)". I think I should briefly run through the Schedule, Mr Chairman. This is a Schedule which in the two cases, the case where there is the obtaining of possession against reconstruction and in the case where there is to be obtaining of possession for own use, in each case of business premises, this is the Schedule which now determines how much notice has to be given and also determines how much compensation is payable if compensation is to be taken rather than alternative premises or in the case of reconstruction moving back into the old premises after development. The first column is intended to identify how long a tenant has been in the property and everything flows from that. The second column says how much additional notice in addition to the notice specified in section 43(2) must be given to the tenant in those circumstances. The third column says how much compensation he is to be paid and then one also has to look at paragraphs 3 and 4 because paragraph 3 says that notwithstanding the third column of the table if in fact 5/6ths of the annual rental is higher in any case than the amount in the third column then you take the higher amount for compensation purposes. And paragraph 4 gives the court the discretionary power to further increase the compensation where the tenant has at his own expense made certain structural alterations to the premises. I would also like to stress for clarity, Mr Chairman, that that compensation is in addition to removal and refurbishment costs which are dealt with in clause 55.

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

HON P J ISOLA:

Mr Chairman, the question of notice. Am I right in thinking that bringing 1 and 2 together, if a tenant has been, for example, more than 5 years but not more than 7 years as a tenant, then notice must be given not more than 24 months nor less than 18 months before the date of termination? The only problem that comes to my mind, Mr Chairman, is that it is not really of much benefit to the tenant is it, he just gets earlier notice? I thought the idea was that you give your notice not more than 12 months nor less than 6 months before the tenancy terminated and if the guy has been there more than

7 years that period of notice is automatically extended to another 12 months, in other words, the tenancy is not terminated for another 12 months but the way it seems to be drafted all it means is that a landlord gives his notice that much earlier, it doesn't extend the tenancy at all.

HON J B PEREZ:

The point remains that the landlord cannot give notice, according to the Ordinance, it is not less than 6 and not more than 12, anyway. The point that is being made or the intention behind this is that you have to give your six months notice to quit, you would be entitled to give it during the contractual tenancy before the lease expires but then the notice required extra pursuant to the Fifth Schedule is over and above that, in other words, if you give your tenant 6 months at the end of, say, a 5 year lease you give it at the expiration of 4 years 6 months, and if you wish to re-possess on the basis that you want it for yourself you have to give that extra notice according to the Schedule on termination of the contractual tenancy.

HON P J ISOLA:

That is not what it says there.

HON J B PEREZ:

The Attorney-General can speak on that. I am telling you that that is the intention behind the additional notice to be given under section 48(2), that is, additional on termination of the contractual tenancy, or if you haven't got a contractual tenancy, if you have only got a monthly tenancy and you still require the 6 months statutory period, you have to give the 6 months statutory period plus the additional notice, that is the intention.

HON P J ISOLA:

But as I read this, if a chap who has been in business for 7 years his tenancy finishes at the end of 1985, then as from the 1st January, 1984, notice can be given terminating in 1985. That is how I read this, that is why I asked.

HON J B PEREZ:

I have told you what the intention is, the only point is that a landlord cannot give more than a year's notice anyway, he is precluded under the Ordinance from doing that, he can only give not less than 6 but not more than 12. It is supposed to be additional, in other words, when the contractual tenancy ends you are required to give extra notice according to the years.

HON M K FEATHERSTONE:

What it means is if your tenancy is due to expire, let us say, in December, 1985, in June you can give the 6 months notice and if you have been there, for example, between 5 and 7 years then you get an extra 12 months so that you can stay there until the end of 1986.

HON P J ISOLA:

That is not what this says.

HON ATTORNEY-GENERAL:

What it means, as drafted, is what the Hon and Learned Leader of the Opposition thinks it means and I think the only way to cure that is to amend Part II, paragraph 2(a) by saying that in addition to the time for termination, as it were an additional period of 12, 15 or 18 months will be added on.

HON A J HAYNES:

If you use the word "additional" in the second line as opposed to "extended" so that "shall be additional to the appropriate time specified", that might cover the point.

HON ATTORNEY-GENERAL:

Mr Chairman, if I can have a couple of minutes, I am just going to sit down and draft it.

MR SPEAKER:

Is it intended to do anything with the Second Schedule or is that done away with now?

HON ATTORNEY-GENERAL:

If that is convenient and the House could proceed with the Second Schedule again, I could look at this in the meantime.

Second Schedule

MR SPEAKER:

So let us deal with the Second Schedule again.

HON J B PEREZ:

Mr Chairman, I have an amendment.

MR SPEAKER:

I am afraid, that you have quoted 'notwithstanding being a landlord'. I don't think there is such a thing as 'notwithstanding' in the Second Schedule.

HON J B PEREZ:

'Not being a landlord'.

MR SPEAKER:

You are referring to paragraph (g) - "the dwellinghouse is reasonably required by the landlord not being a landlord...." is that what you mean?

HON J B PEREZ:

To delete all the words "not being a landlord who has become landlord by purchasing the dwellinghouse or an interest therein after the coming to operation of this Ordinance" and substitute "(being a landlord who has become landlord by purchasing the dwellinghouse or an interest therein after the commencement of this Ordinance or not less than 5 years before the date of the application".

MR SPEAKER:

You want to do away with all the words in paragraph (g) other than (i), (ii) and (iii) is that right?

HON J B PEREZ:

I beg your pardon?

MR SPEAKER:

You want to do away with all the words in paragraph (g) other than for the words "for occupation as a residence for -". I think it would be neater if you delete all the words from (g) up to "for" and you substitute it for the complete clause and like that I think we know where we stand. After "application", we should add "for occupation as a residence for -" and then you could move the deletion of all the words in paragraph (g) from "the" to "for" and the substitution therefor of what you are proposing, is that correct?

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

HON A J HAYNES:

Mr Chairman, if I may comment on this. Whilst I understand the intention behind this I don't think that this amendment will have that effect in that the amendment as proposed will preclude a landlord of a different type, ie one who has been a landlord before 1940 from the same right. It should read, in my submission, "not being a landlord who has become landlord by purchasing a dwellinghouse or an interest therein after the coming into the operation of this Ordinance unless such an interest has been acquired for a period not less than 5 years".

HON J B PEREZ:

I don't agree with the Hon Member, Mr Chairman, because the second part of the amendment is "or not less than 5 years before the date of the application". Therefore, obviously the point that the Hon Member is making is surely covered in the amendment. It says "or not less than 5 years". What it means is that in order for a landlord to be able to say I want the property for myself or for my son or for my daughter, at least he has got to have been landlord or an interest in that property must have arisen before the period of 5 years or from the date of the Ordinance. You are not excluding landlords who purchased, say, in 1955 or 1965.

HON P J ISOLA:

Mr Chairman, I don't quite understand the purpose of this amendment. Is it to enable a landlord who buys the property to get possession of a dwellinghouse 5 years after on the grounds in that Schedule? That seems to be the purpose because as drafted, as it is in the Bill, it says anybody who buys after this Ordinance comes into force cannot get possession of a dwellinghouse, fullstop. This amendment says that provided 5 years has elapsed since you purchased the property you can get possession but that would seem to me to be a very short time in respect of a dwellinghouse. I can understand it with business premises but with a dwellinghouse 5 years is a very short time.

HON CHIEF MINISTER:

You are getting less now without that.

HON P J ISOLA:

I think the answer would be to double that figure from 5 to 10, Mr Chairman.

HON CHIEF MINISTER:

There is nothing in it there now as it is.

HON J B PEREZ:

As it is the matter is even worse. As it is is if you buy a property now, today, if this Bill becomes law hopefully within the next few months you would be entitled to possession straightaway. The idea of the 5 years is in fact to try and remedy that situation because we are saying if you buy today and the Ordinance comes into force, say, in March you are not entitled to say you want it for yourself. We are going back 5 years.

HON P J ISOLA:

On the one hand you are going back five years but on the other you are putting no restriction on people who buy properties after the commencement of the Ordinance to get possession after five years whereas this Ordinance at least has the cut-off point.

HON J B PEREZ:

My understanding, the way I am moving the amendment, the cut-off point is the date of the commencement of the Ordinance but we have to guard in situations where somebody may buy today and therefore you need the five year qualification. What we are saying is if you buy after the date of the commencement, you are not entitled to possession without giving alternative accommodation.

HON CHIEF MINISTER:

We have included an extra five years from what it was in the Ordinance.

HON ATTORNEY-GENERAL:

Sir, if I could just elaborate for the Hon and Learned Mr Haynes. The only landlord, and I think it is quite simple, who can recover possession of a dwellinghouse for his own use is one who is either the landlord before this Bill comes into force, that is one possibility, or who has been a landlord for at least five years.

HON P J ISOLA:

I think five years, Mr Chairman, is too short a period. I would like to move an amendment to make it 'ten'.

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

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

The following Hon Members voted against:

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 Hon D Hull
The Hon B Traynor

The following Hon Member abstained:

The Hon J Bossano

The Hon P J Isola's amendment to the amendment was accordingly defeated.

Mr Speaker then put the question in the terms of the Hon J B Perez's amendment as amended and on a vote being taken the following Hon 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 Hon D Hull
The Hon B Traynor

The following Hon Members voted against:

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 amendment was accordingly passed.

Mr Speaker then put the question in the terms of the Second Schedule, as amended, and on a vote being taken the following Hon 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 Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

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

The Second Schedule, as amended, stood part of the Bill.

Fifth Schedule

MR SPEAKER:

We go back to the Fifth Schedule and I understand that the Hon and Learned Attorney-General has an amendment to Part II, is that correct?

HON ATTORNEY-GENERAL:

I need to make another amendment to this, Mr Chairman. What I will do, Mr Chairman, is move the amendment but I might ask one of my colleagues to move an amendment to it. The amendment I have to move, Mr Chairman, is an amendment to the Fifth Schedule Part II paragraph (a), to omit this paragraph and substitute the following paragraph:

"(a) notwithstanding any other provisions in this Ordinance, the current tenancy shall not come to an end before the appropriate period specified in the second column of the Table to this paragraph, immediately following the date of termination of the tenancy".

And secondly, in the Table to omit the headnote to the second column and substitute the following: "Extended term of tenancy". The intention of this, Mr Chairman, is to provide that where the landlord has given notice to terminate a tenancy if the landlord has done so, then if the conditions specified in the Schedule are obtained, once he has given his notice that has the effect of postponing the date of tenancy additionally beyond its ordinary date of termination by the amount of time shown in the second column of the Table.

MR SPEAKER:

You have proposed the amendment and there is only one slight technicality and that is that you are moving an amendment to an amendment which you have proposed. I would suggest that Mr Brian Perez, without reading it, should move it.

HON J B PEREZ:

I move the amendment, Mr Chairman.

Mr Speaker proposed the question in the terms of the Hon J B Perez's amendment to the amendment.

HON P J ISOLA:

I think, Mr Chairman, that does meet the point that I raised so we support it.

HON M K FEATHERSTONE:

I have an amendment to that, Sir. The amendment is that after the little (a) it should start off by saying: "in the case where the landlord under section 43(2) has given notice to terminate the tenancy" and then carry on "notwithstanding....".

Mr Speaker put the question in the terms of the Hon M K Featherstone's amendment to the amendment to the amendment and on a vote being taken the following Hon 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 A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon M K Featherstone's amendment to the amendment to the amendment was accordingly passed.

Mr Speaker put the question in the terms of the Hon J B Perez's amendment to the amendment, as amended, and on a vote being taken the following Hon 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 A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon J B Perez's amendment to the amendment, as amended, was accordingly passed.

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment, as amended, and on a vote being taken the following Hon 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 A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon Attorney-General's amendment, as amended, was accordingly passed.

The Fifth Schedule, as amended, stood part of the Bill.

HON P J ISOLA:

Mr Chairman, before the Long Title I don't think we have done Clause 69, I think that was deferred.

MR SPEAKER:

We most certainly did it, there were no amendments and we most certainly did it and I put it to the vote.

HON A J HAYNES:

Perhaps on a more generous note. Can we be given an indication as to when we are likely to see an Ordinance incorporating all the amendments?

HON ATTORNEY-GENERAL:

Normally the Bills would come out on Thursday, being realistic as this is a little bigger than most of them it may be the following Thursday but as quickly as possible. Once a Bill is passed by the House they are presented for assent as quickly as possible.

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

HON M K FEATHERSTONE:

Mr Chairman, may I take this opportunity and I think I am speaking not only on behalf of the Select Committee but also the House, to congratulate the Attorney-General on the competent and able way he has interpreted the wishes of the Select Committee as modified by Government under somewhat trying circumstances at times, and also to thank the Hon the Leader of the Opposition for his very helpful and useful amendments.

HON J BOSSANO:

I take it nobody is thanking me, Mr Chairman.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Law Revision (Miscellaneous Amendments) (No 2) Bill, 1983; the Auditors Registration Bill, 1983; the Supreme Court (Amendment) Bill, 1983; the Criminal Offences (Amendment) Bill, 1983; the Immigration Control (Amendment) (No 2) Bill, 1983, and the Landlord and Tenant Bill, 1983, have been considered in Committee and agreed to, with 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 Law Revision (Miscellaneous Amendments) (No 2) Bill, 1983; the Auditors Registration Bill, 1983; the Supreme Court (Amendment) Bill, 1983; the Criminal Offences (Amendment) Bill, 1983, and the Immigration Control (Amendment) (No 2) Bill, 1983, the question was resolved in the affirmative and the Bills were read a third time and passed.

HON J BOSSANO:

Mr Speaker, I would like to explain, I will be abstaining on the Third Reading for one reason and that is that I voted in favour of Clause 81 which effectively amends the Landlord and Tenant (Temporary Requirements as to Notice) Ordinance extending the moratorium sine die and obviously I want the moratorium extended and I don't want to vote against something I have already voted in favour.

On a vote being taken on the Landlord and Tenant Bill, 1983, the following Hon Members voted in favour:

The Hon I Abecasis
The Hon A J Canopa
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 B Traynor

The following Hon Members voted against:

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 abstained:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The Bill was read a third time and passed.

MR SPEAKER:

I think the Hon Dr Valarino has something to say.

HON DR R G VALARINO:

Yes, Mr Speaker, in answer to Question No.430 of 1983 I

mentioned to the House that I would provide additional information on a specific item. The cost of running Waterport Power Station is a charge on the Electricity Undertaking Fund account and therefore the cost will have to be met either from increased tariffs which I do not think is the answer, or from a higher budgetary contribution to cover any deficit. The present expenditure is being met from a new sub-head 85 under Special Expenditure in the Recurrent vote.

MR SPEAKER:

I must say that I have received notice from the Hon Mr Bossano that he wishes to move a motion. I have explained to Mr Bossano what the Standing Orders say and that is that before a motion can be moved in the House at least five clear days of intention to move has to be given unless suspension of Standing Orders can be agreed and therefore if you so wish to proceed then you will have to move the suspension of Standing Orders, under Standing Order 60 of course.

SUSPENSION OF STANDING ORDERS

HON J BOSSANO:

Mr Speaker, I am moving under Standing Order 60 the suspension of Standing Order 19 to enable me to move a motion, of which I have a copy, without giving the required notice. The reason, Mr Speaker, why I could not give the required notice is because the motion relates to something that occurred this morning which I think the House should debate since in my judgement, as I will be able to explain if I obtain the support of the House in the suspension of Standing Order 19, is a matter which has got serious consequences for Gibraltar and therefore the opportunity of debating it should not be foregone simply on a technicality of not allowing the suspension of Standing Orders. The motion, in fact, deals with the statement made by the Flag Officer, Gibraltar, this morning to the Trade Union Movement in relation to the instructions that are to be given tomorrow to the workforce in connection with works related to commercialisation and the threat that if those instructions are disregarded because the Union opposes the work involved, then there will be a lock-out of those affected. This could have an escalation throughout Gibraltar and I believe it is a matter which urgently requires debate and it is an opportunity that the House should not ignore. I move the suspension of Standing Order 19 to enable me to do that.

MR SPEAKER:

As you are aware there is no debate allowed on the suspension of Standing Orders. I have always allowed anyone who wishes to speak on clarification to do so but my duty now is to propose the question that Standing Orders should be suspended to enable the Hon Mr Bossano to move a motion in spite of the fact that the required five days notice has not been given.

HON CHIEF MINISTER:

Mr Speaker, we are opposing the granting of the suspension. The notice given today would have been predictable to anybody who knew what the attitude of the British Government was as regards the Dockyard. There is a statement which was made, I think the paper itself says that the statement was made on the 28th November, 1983, in the Navy debate, confirming the intention to close the Gibraltar Dockyard and what is being done by the Navy which is their responsibility to some extent, is in consequence to the decision which has been taken and which has been debated here many times and all aspects of it has been the subject of discussion. I do not think any useful purpose would be served to have any motion here that would alter anything.

HON J BOSSANO:

I suppose today can be considered a red letter day in the history of democracy in Gibraltar, the House of Assembly is muzzled.

HON CHIEF MINISTER:

It is not muzzled, it is pursuing its proper function and not interfering in other spheres.

HON J BOSSANO:

Mr Speaker, perhaps will the Hon Member agree with me that it is preferable that we should debate the matter here in a calm atmosphere and that the consequences should be spelt out or does he prefer the thing that he has criticised on so many occasions where those affected feel that their views can only be listened to by acting in a different manner, which he has often criticised? Does he not realise that he is depriving this House and the people of Gibraltar of listening to the arguments about the decision that has been taken to which I have been told by the Flag Officer this morning he has agreed.

HON CHIEF MINISTER:

You were not told that I had agreed, you were told that the Government had been informed. That is my understanding of the situation and that is all, I have not agreed to anything and it is not in my function to agree.

MR SPEAKER:

I must say that under Standing Order 16 no debate is allowed.

HON CHIEF MINISTER:

The answer is that we have been told many times the consequences of this and there is nothing new in it.

HON P J ISOLA:

Mr Speaker, I don't want to debate or anything, may I say that I regret the decision of the Government not to support this motion. We have suffered under the similar refusal to suspend Standing Orders to debate a matter we thought is important. I would have thought that if we can suspend Standing Orders to take a Bill of which we have not received enough notice, we can suspend Standing Orders to discuss something that certainly as far as this side of the House is concerned, has come to our notice today and has shocked us deeply and I regret that the Government is not prepared to allow a debate on this matter.

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

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon 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 B Traynor

Standing Order 19 was accordingly not suspended.

ADJOURNMENT

HON CHIEF MINISTER:

I beg to move that the House do now adjourn sine die.

HON MAJOR R J PELIZA:

Mr Speaker, isn't there another rule under which as a matter of great public interest a debate can be started in the House?

MR SPEAKER:

There is and I have, in fairness to Mr Bossano, explained the situation as it stands. There is most certainly Standing Order 25(a) which states: "Any Member may, on any day other than the first day of the first session of a new House, at the time prescribed in Standing Order No. 7 (Order of business), rise in his place and state that he asks leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance". If you go to Standing Order No. 7 there is a specific place where this can be done which is the Order of the Day immediately after question time, it has to be done then and that is why I advised Mr Bossano that the only manner in which he could proceed was by seeking suspension of Standing Orders which he could without having given the twenty-four hours notice because I can suspend the necessity of giving twenty-four hours notice.

HON MAJOR R J PELIZA:

Thank you very much, Mr Speaker.

MR SPEAKER:

I will now propose the question which is that this House do now adjourn sine die and in so doing I will call on the Hon Mr Bossano to bring up on the adjournment, as he gave notice, of his intention so to do of matters related to the statement made by Mr Malcolm Rifkind in the House of Commons regarding the EEC. Of course, this debate is limited to 40 minutes and there is no vote at the end of the debate and the time is now 4.27 pm.

HON J BOSSANO:

I am right in thinking, Mr Speaker, that in fact the other matter which I wanted to raise I could not have raised on the adjournment because I would have had to give notice before 5 o'clock yesterday.

MR SPEAKER:

That is one of the reasons and it is too late now and, secondly, I had notices from two different Members and only two matters can be raised on the adjournment. Mr Isola has already given notice that he intends to raise something else.

HON J BOSSANO:

Yes, but in any case if I had wanted to substitute for this I could not have done it because I had not given notice. Well, obviously, I think the matter we should have discussed transcends in importance what we are going to discuss now because it seems to me that we are talking about what may or may not happen years from now and I am not quite sure what state Gibraltar is going to be in if we follow the road we are following at the moment, Mr Speaker. But, nevertheless, on the question of the Common Market the answer given in the House of Commons was that transitional arrangements were relevant to Gibraltar, would be the same for Gibraltar as for the rest of the European Community in relation to Spain's application. The House will recall that I brought a motion in 1980 seeking the re-negotiation of Gibraltar's terms of membership. A Committee was set up to study the need to do that. That Committee has met very infrequently and the answer appears to suggest that the British Government is unaware of the existence of the Committee because in fact what the answer should have been was that the transitional arrangements as far as Gibraltar was concerned would be subject to whatever was eventually agreed in terms of Gibraltar's own membership of the Common Market. It seems to me that to allow this answer to be given in the House of Commons without the record being put straight is to continue giving the impression that whatever is negotiated between the EEC and Spain as to the transitional arrangements applicable for Spanish Nationals as EEC Nationals anywhere else, will automatically apply to us and it is in my view extremely serious when the question itself particularly drew attention to the expected in-flow of Spanish workers in Gibraltar. The Trade Union Movement has been making representations both directly to the British Government and to the Committee. I brought a motion to this House, the Committee has talked to people from the Foreign Office and here we have a Minister telling the House of Commons that whatever transitional

arrangements are made for the rest of the Common Market will be the same for Gibraltar and I am therefore raising the matter and I am asking the Chief Minister to put to the British Government that that answer is incorrect and is unacceptable to the House of Assembly of Gibraltar and that the matter should be corrected in the House of Commons and the true position be explained to the House that the Gibraltar House of Assembly cannot simply be satisfied with whatever transitional arrangements are made for the rest of the EEC in regard to Spanish entry because in fact we have been arguing throughout that the circumstances, the relationship between Spain and Gibraltar in terms of size and in terms of the potential damage to the economy, is unique and requires unique treatment.

HON P J ISOLA:

Mr Speaker, I would like to echo the concern of the Hon Member on this question of the EEC arrangements for Gibraltar. It seems to me that there has been unmitigated enthusiasm on the part of the British Government, obviously for reasons of national interest or whatever, to support the Spanish entry into the EEC notwithstanding the fact that the Spanish Government is not keeping to agreements entered into with the British Government, is continuing its siege of Gibraltar in a far more damaging way than it was doing before and I agree with the Hon Member that it is certainly a matter for concern that it should be taken as a matter of course that Gibraltar must come in where the EEC is concerned and where movement of labour is concerned particularly within the transitional arrangements that much bigger countries are making for themselves. The representations were made to the British Government, there was a delegation from the Foreign and Commonwealth Office in Gibraltar and we explained to them the problems that affect us and I think the least that could be done would be to consult us on anything that will undoubtedly affect us in Gibraltar and I must echo the concern of the Hon Mr Bossano that a British Minister should state in Parliament, as a matter of course, that anything that is agreed in transitional arrangements automatically applies to Gibraltar which it may well do so without at least telling us in Gibraltar what are the steps that the British Government is taking to preserve the real and vital interests of Gibraltar resulting from Spanish entry into the Community.

HON MAJOR R J PELIZA:

Mr Speaker, I do not want to deprive the Chief Minister from giving a long and detailed answer because I think we want to hear him give a good explanation of the situation. This is a very serious matter for Gibraltar and therefore he should

not be deprived from giving us good information on this matter through lack of time, so I am not going to speak all that long.

MR SPEAKER:

There is plenty of time. We have been going on for eight minutes now.

HON CHIEF MINISTER:

Mr Speaker, I propose to speak for three quarters of an hour.

HON MAJOR R J PELIZA:

Mr Speaker, I do not want to be heard, we want to hear him.

HON CHIEF MINISTER:

I have not got three quarters of an hour, anyhow.

HON MAJOR R J PELIZA:

All I want to say is that we in this House are well aware of the consequences of a peaceful invasion of labour into Gibraltar and how subtle this can be, how dangerous this can be to us and how all this talk of preserving and defending our identity is just lip service if we do not do something about it and it has got to be done now before it is too late and the whole matter is settled. Once it is settled I think it is going to be very, very difficult to undo it, to unscramble the egg is a very difficult process, I do not think anyone has found the answer yet so we have got to try and avoid the egg being scrambled and therefore, Mr Speaker, I think that there should be no waste of time as we did over the Dockyard, to start informing Members of Parliament of the situation and the consequences. Mr Speaker, I think it is possible for us within our knowledge and with assistance from people who are well in the know of how the European Community works and the rules and regulations and everything else about treaties, I think we have already had some advice, there is no reason why we should not seek more if necessary, how important it is that not only we ourselves should be informed of what can be done and what cannot be done but also that we should inform Members of Parliament and Members of the House of Lords of the situation. If the closure of the frontier and the closure of the Dockyard are menacing to Gibraltar, this is equally so and we must not allow the situation to overtake us, as it were, and then it is too late to do anything. Therefore, I do urge the Chief Minister to first of all take note of what has been said already and, secondly, see if he can really give us a thorough and

detailed explanation of his thoughts on the matter of what the Government has done so far and what the Government intends to do in the future. I think he can have no doubt in his mind that he is going to get full support from everybody in Gibraltar, Opposition, Unions, every representative body. He must not wait and throw away that valuable support that he has had for the Dockyard, and has got for this. Please, I can only say this to the Chief Minister, realise the potential and make use of it.

HON CHIEF MINISTER:

I would like, first of all, to thank the Hon Mr Bossano for raising the matter in this way and also for the contributions made by the Leader of the Opposition and the Hon and Gallant Major Peliza. Let me say that I fully share the sentiments expressed and the reasons that bring the matter to the House. I hope nobody will doubt that I am as concerned at the matter as anyone in Gibraltar can be, in fact, more because the responsibility is perhaps a little higher to some extent though there are certain things that are entirely out of one's hands up to a point. As the Hon Mr Bossano quite rightly said, his first motion was brought in July, 1980, and then it was decided, perhaps I might remind Members since I have the time, of what the motion said because I have had a long brief prepared precisely because it is a matter of importance for the record: "This House considers that - (1) a study should be made of the following matters in the context of the negotiations leading up to Spanish entry to the European Community: the economy, trade and employment; (2) when the results of such a study are completed, Her Majesty's Government should be requested to seek to conclude special arrangements with the EEC in order to protect Gibraltar's interests". That was the terms of the motion. At a meeting held on 21 October, 1980, I proposed to the Leader of the Opposition and to Mr Bossano that, as the three parties represented in the House had agreed to work together in this matter, a small sub-committee should be set up on the terms of reference which I think I ought to quote: "(1) to identify the specific problems, in the fields of employment, trade and the economy generally, which it is envisaged would arise for Gibraltar on Spain's accession to the European Community and to advise on the safeguards which should be sought in the context of the negotiations of Spanish entry with a view to ensuring that Gibraltar's economic and political interests are protected; and (2) to report its conclusions in the form of a brief to be referred for expert study and advice". The first thing I want to say is that if the United Kingdom Government is unaware of the existence of the Committee it is their fault and not ours because we have made them well aware, I can assure the Hon Member that we have. The Committee met on a number of occasions and in 1981 the Committee discussed

the following papers: (a) economic aspects; (b) freedom of movement - employment; (c) Regional Development Fund, Social Fund and European Investment Bank; (d) Taxation; (e) Investment and Company formation; (f) transport; (g) tendering for contracts (h) trade. The Chamber of Commerce were invited to carry out a study of the impact which Spain's accession to the EEC might have on Gibraltar's trade and a copy of the Legal Opinion that had been obtained by the Chamber was passed on to the Committee for consideration in January, 1982. The Transport and General Workers Union also submitted a memorandum to the Committee. After considering all these issues the Committee decided that before making an approach to the British Government, independent legal advice should be obtained from a firm of lawyers specialising in Community matters. A lengthy Memorandum setting out the issues and the questions on which advice was requested was agreed by the Committee and was forwarded to the selected firm of lawyers in Brussels in July, 1982. After correspondence, the lawyer concerned, Mr Ian Forrester, was invited to visit Gibraltar for consultations. A meeting was held here in November at which a lengthy memorandum prepared by him was discussed. He put forward two suggestions: "(1) that Gibraltar should make a formal approach by means of a memorandum to the European Commission, through the British Government, to put them on notice of the problems envisaged (to be followed by a later memorandum which would attempt to put forward suggested solutions); and (2) that Mr Forrester should be authorised to make unofficial and private soundings in Brussels so that he might be in a position to assess what kind of solutions might have a chance of success under Community rules". Because of Britain's responsibility for external relations, the suggestions were referred to London for agreement. The draft Memorandum referred to already was forwarded to Mr Forrester. London preferred to proceed in a somewhat different manner and asked for Gibraltar's 'concern' to be spelt out. Copies of the draft Memorandum were forwarded to London, so there is one clear way in which we have already told them all our concern in that long Memorandum. Mr Forrester meanwhile took the view that he could not finalise the draft Memorandum until London's position was known. Mr Hannay, the FCO Under-Secretary in charge of European Community Affairs accompanied by - Mr Darwin, the Deputy Legal Adviser to the Foreign Office; Miss M G D Evans and Mr Codrington, First Secretaries at the FCO; Mr Diggory, First Secretary UK representative in Brussels; and Mr Caslake of the Department of Health and Social Security, visited Gibraltar from 26th to 28th July this year. Arrangements were also made for Mr Forrester to come to Gibraltar in order to attend the meetings with Mr Hannay and his team, so that we had the availability of his advice when the team was here. In addition to meeting the House of Assembly Committee, Mr Hannay met the following bodies:-

The Chamber of Commerce; The Finance Centre Group; The Gibraltar Trades Council and the European Movement. Discussions were also held with Gibraltar Government officials. On 30th September I was informed by the Deputy Governor that the British officials had visited Brussels to discuss with Commission Officials certain concerns including those expressed by the Gibraltar Government when Mr Hannay visited Gibraltar in July, about possible implications for Gibraltar of Spanish accession to the European Community. As members of the House of Assembly Committee are aware - they were called to the Secretariat and the letter was shown to them - the information contained was confidential and it would not be in the interests of Gibraltar to make them public but Members can remember the letter and were given full access to it. Discussions between the British and Community officials have continued in a constructive vein, so I am told. On the 1st December, 1983, when Mr Malcolm Rifkind, Minister of State at the Foreign and Commonwealth Office, said in reply to a Parliamentary question what the Hon Member has said, that the transitional arrangements on Spain's entry to the European Community would be the same for Gibraltar as for the rest of the Community. He went on to say that the Community was seeking a transitional period no less than for Greece on the free movement of labour for Spanish workers, that is, seven years, and a declaration on the free movement of workers similar to that attached to the Greek Treaty of Accession. This is important. The declaration attached to the Greek Treaty of Accession reads: "The enlargement of the Community could give rise to certain difficulties for the social situation in one or more Member States as regards the application of the provisions relating to the free movement of workers. The Member States declare that they reserve the right, should difficulties of that nature arise, to bring the matter before the institutions of the Community in order to obtain a solution to this problem in accordance with the provisions of the Treaties establishing the European Communities and the provisions adopted in application thereof". I hope that is quite clear, that is, that there is a safeguard clause in the Treaty of Accession to Greece which could easily have been put forward by Mr Rifkind. Even then he could have done that, that is that "the enlargement of the Community could give rise to certain difficulties for the social situation in one or more Member States as regards the application of the provisions relating to the free movement of works. The Member States declare that they reserve the right, should difficulties of that nature arise, to bring the matter before the institutions of the Community in order to obtain a solution to this problem in accordance with the provisions of the Treaties establishing the European Communities and the provisions adopted in application thereof". That is the text. Our position continues to be that we are awaiting the results of the representations

on the matter being made on Gibraltar's behalf following the visit of Mr Hannay's team in July. I have this morning been in touch with the Deputy Governor in order that he would obtain the latest situation position from the Foreign Office and I am advised that we may hope to receive a reply in the very, very near future.

MR SPEAKER:

I will then call on the Hon and Learned Mr Isola to raise the matter which he gave notice of in connection with the answer to Question No. 487. The time is now eleven minutes to five.

HON P J ISOLA:

Mr Speaker, I don't think I shall take up all the time. I have given notice that I wish to raise the unsatisfactory answer given to the question of my Hon Friend, Mr Restano, in answer to a Question where the Government was asked to state its policy with regard to advertising of official notices in the local news media and the answer he received was that Government used its judgement in deciding whether it will get value for money in each particular case and also takes into account the extension to which a particular publication is of general news value as opposed to acting as the organ of a political party. Mr Speaker, there were then a series of supplementary questions and we are dissatisfied with the answer that has been given because basically what the answer means when you get rid of gloss, is that the Government is using its funds for advertising in order to dispense revenue to newspapers that either support them or are not unfriendly to them and in a democracy, I think that official notices of the Government which are notices of administrative importance to the public, that official notices are put in newspapers in order that the general public may be informed of what the Government wishes to communicate. That is the purpose of an official notice. It is not to support a party organ or to supply funds to a friendly newspaper to keep it going. It is to put over those matters which the Government cannot put over by way of a press release but wishes to notify the public officially about. We have been looking, for example, in the Gibraltar Post of Sunday 11th December and we notice there were no less than sixteen official notices as against twenty adverts and in the Panorama of yesterday there were no less than eighteen official notices as against ten adverts and I understand in the Vox of last Saturday there were twenty-one official notices. If the purpose of the official notice, Mr Speaker, is because the Government is anxious that the public should get to know what it wanted to get to know then clearly it should be published

in every newspaper and this has been the position of Government in the past until the Opposition - I am not talking of this Opposition - until the Opposition started to run newspapers, lets put it that way, people who didn't agree with the Government whose editors didn't agree with the Government policy or administrative acts or whatever and then a new policy appears to have emerged in the last year or two to exclude newspapers that do not support or are not unfriendly to the Government, from obtaining official notices. This, Mr Speaker, has been done cleverly, of course, I think Vox can be thankful that in order to try and press the matter home that the Government is impartial, gets the adverts and therefore they can be thankful for that. But, Mr Speaker, when the Government says as it has said in the answer that they are not going to give adverts to newspapers that support a particular political party, this is taking matters too far. When we raised in the supplementary question the fact that the Hon and Learned Chief Minister visited the offices of the Gibraltar Post or a certain newspaper, I don't think we mentioned the periodical, the Chief Minister jumped up to say that of course he did, he was a very good friend of the editor who also happens to be the editor of Panorama. Mr Speaker, what would have happened in 1969/71, the two years and ten months, if the Government of the day had followed the same policy? How could the Gibraltar Post, for example, that turned itself from a weekly to a daily newspaper throughout the period of two years and ten months or possibly a bit less, two years and five months, turned itself into a daily newspaper and every day of the week attacked the Government of the day, every day of the week, not once a week, every day of the week, what would it have said if the Government of the day had deprived it of its official notices? What would the Opposition of that day have said in those days, Mr Speaker? That newspaper which is not regarded as a party newspaper by the Government or not regarded as supporting the Government in power because otherwise if they did they wouldn't be giving it the sixteen adverts they gave it last Sunday, what would they have said if the Government of that day had withdrawn all official notices from them because they had suddenly turned themselves from a weekly newspaper into a daily newspaper to be able to attack the Government of the day every day under the general editorship of the Hon Minister for Public Works in those days? I understand he was editor-in-chief in those days. What would he have said from this side of the House, Mr Speaker? I just tremble to think and he would have been right because if the purpose of an official notice of the Government is to inform the public through the media, then it has to accept that the media mean all the media and not just part of the media. Do I have to remind the House, the elected Members of the House, for their sins, I am absolutely certain read every local newspaper, we

have no choice in the matter, we have to read them all. There is an article every week in the Gibraltar Post by Mr Mascarenhas, a well known aspirant to a candidacy for the GLP/AACR in the next elections. He writes a political article every week and his face appears in the Post every week. What is he doing that for, the DPBG? It is a party newspaper, it supports a political party. Of course, Mr Speaker, it criticises the Government on occasion but that has to occur because a Government which is governing all the time is criticised by its own supporters, I have only to give the example of the Daily Mail, the Daily Express and other national newspapers in England because they are the Government of the day. There is far more to criticise in a Government than in an Opposition because an Opposition is not governing and therefore cannot make mistakes in administration because they do not administer and as far as the public is concerned it is the Government that matters and, of course, the Government is also responsible for the administration and customs people, police, revenue, consumer protection, of course they make mistakes and although ultimately the responsibility is of the Ministers any people who support the Government must necessarily criticise acts of officials and so forth and this they do, this is quite normal, this doesn't make them non-party newspapers, Mr Speaker. When there is a real issue, a matter of importance, of course they support the Government and this is very clear to all in the case of the Gibraltar Post and it is very clear in the case of Panorama and we all know it, Mr Speaker, and it is a patently known fact. What is the danger in the Government's attitude of saying: "Well, if a newspaper supports a party then we don't give it advertising"? You may get a newspaper like The Democrat or like The People that everybody knows supports a political party and they are honest enough to admit it and, anyway, if they didn't it is so obvious that everybody knows it but there are other newspapers, Mr Speaker, that may or may not support a political party but who may get concerned about being too critical of the Government because if they support or criticise a Government too much they might be classified as the supporter of a political party and advertising taken away and there are newspapers that could die if they didn't have advertising from the Government and in those circumstances the freedom of such newspapers to criticise the Government would be under constraint. Mr Speaker, I don't know whether Hon Members have noticed this or not but certainly I have. A particular newspaper that used to cover the proceedings of this House very, very fully is not doing so any longer, in my view, and is being somewhat selective as it wasn't before. I don't know what reason there can be for that but what I say is that the policy statement made by the Chief Minister in answer to a question of my Hon Friend Mr Restano, creates the situation that Government advertising will only

be done on a selective basis to suit the political ends of the Government and it is quite clear, a newspaper that comes out on Sunday gets the same adverts as the newspaper that comes out on the Monday, why? Why advertise in weeklies, why not advertise just in one newspaper, the Chronicle? Why give adverts to the Post, to the Panorama and the Vox all coming out within twenty-four hours of each other, why? There can only be two reasons, Mr Speaker, one is to keep them going and help them out and the other one is, which should be the true reason, is that irrespective of the political opinions that they express, irrespective of the political line that they take, these are official notices and the Government wishes them to be communicated to the public through all the possible media so that everybody gets to know, so that, for example, a person who merely reads the Panorama once a week and no other newspaper will get to know, so that the person who reads just the Vox and no other newspaper will get to know, so that the person who reads the Chronicle only will get to know, so that the person who reads the Post only will get to know. That is the purpose, I think, or should be the only reason for official notices being put in three newspapers that are published within 24 hours of each other because I have mentioned these three but don't forget there is a Chronicle on the Saturday and a Chronicle on the Monday. There are five newspapers within 48 hours all receiving official notices and the only good reason there can be for this is, Mr Speaker, that the Government desires to disseminate the information of those official notices and because they are anxious that everybody should get to know what they wish to give out in an official notice they are prepared to pay for it. Mr Speaker, to my mind, when we get an answer to a question which brings politics into how advertising is meted out, then all we can say in those circumstances is that that is a constraint on the freedom of the press. That is an attack on the freedom of the press because, Mr Speaker, if a newspaper criticises the Government too much then it won't get official notices and that perhaps will encourage, for example, the Gibraltar Chronicle which has to be published every day, has to pay union rates to everybody who works there and so forth, will encourage them to be more friendly towards the Government and not to be too critical of them, it is natural. It is all very well for the Hon and Learned Chief Minister to say of course this is not interference with the freedom of the press, of course it isn't, you underestimate the press. Yes, perhaps we do underestimate the press but one thing is certain, that the only good reason there can be for withholding official notices from newspapers that do not support the Government, the only good reason there can be for that is that the Government feels that they should not finance papers that are working, as it were, through their editors and through their editorial policy for the downfall of the Government. Mr Speaker, that is a wrong principle to work

on in a democracy and if that principle had been worked on by my Hon. and Gallant Friend Major Peliza when he was Chief Minister for two years and ten months, the Gibraltar Post would not have been able to come out every day instead of every week in order to criticise the Government as it did constantly during that time. And if they had done that, if my Hon and Gallant Friend had done that he would have been wrong. In the same way, Mr Speaker, that although on this side of the House we are very critical, as we have been on a number of occasions, with GBC, for example, on a number of matters, we on this side of the House have always stood for their right to state the news, to do political broadcasts, to put both sides of the coin and for their right to be independent in that sense and we think, Mr Speaker, that the policy that has been outlined by the Hon and Learned Chief Minister as to giving advertising, the policy that has been advertised is against and works against the freedom of the press, against the freedom of expression of opinion and is calculated to influence the press in what they say and what they do. I am sure that nobody in this House desires that, including the Hon and Learned Chief Minister, but I am afraid that the way he has put it and the way he has acted and the way that Government is acting now in relation to official notices can only lead to the conclusion that the official notices are being used as a weapon to support those newspapers that support the Government and user of them to be used in a way to put constraints on newspapers that are not allied to any political party. In other words, they have moved away from the concept of the official notice which is to ensure that the Government pays for an advert, pays the newspaper for an advert to ensure that the public gets to know, every section of the public gets to know what is that advert and that is why they give it to all the newspapers and they are going away from that concept to the concept 'we only give adverts to those that support us'. I hope that in raising this matter on the adjournment I hope I can have an assurance from the Hon and Learned Chief Minister that the Government or that he will as Minister for Information reconsider the answer he gave to my Hon Friend Mr Restano.

HON MAJOR R J PELIZA:

Mr Speaker, I will not speak for very long, in fact, it would be unfair of me to deprive the Chief Minister of his right to reply, give him plenty of time to defend his position and perhaps even to become a bit constructive and perhaps show what he might think of doing after he has heard my Hon Friend who has put a wonderful case for the support of the freedom of the press in Gibraltar. Regardless of whether the newspaper is for one party or another, I think there is nothing wrong in a newspaper expressing a different point of view to that of the Government. That, in fact, is freedom of the press and there is nothing wrong at all

in the Government helping those newspapers, if necessary, to be able to express their point of view. In fact, there are cases where they do subsidise newspapers precisely to avoid newspapers falling into the hands of monopolies, as you hear in Great Britain you hear the Labour Party saying that the national press is against them because they are all controlled by people who are anti-Labour Government. So there is a case, in fact, for supporting party newspapers to ensure that their views do go out to the public. There is absolutely nothing wrong in principle in supporting a party organ, as it were. What I think is hypocritical is to come and say that one paper is a party organ and the other one is not when it is blatantly clear that they both are and that the only difference is that one does not say so and the other one has got the courage to say so. I know that perhaps the Chief Minister does not accept it but that I think is vox populi in Gibraltar, everybody knows it, and if he doesn't he must be the exception to the rule. But what is even worse is that the man who himself is obviously biased in favour of one newspaper should be sitting in judgement as to who should get the money, that to me is totally undemocratic because he is obviously subjective in his decision in that he is the person who is going to decide who should be subsidised and who shouldn't because in fact we call it adverts but in fact it is a subsidy, we all know it is Government subsidy and I think it is most unfair that this should be the case. I am going to appeal to the better nature of the Chief Minister and say that I do believe that he has, I think, a feeling for the freedom of the press. I remember when I brought up the question of the Trade Licensing Ordinance not applying to printing because that could affect the freedom of the press, he supported the idea and he made sure that the Bill was produced safeguarding that position. Therefore, I was very, very surprised when in practical terms he took a completely different decision and he himself acted not through a third party, but he himself directly by stating in answer to my Hon Friend's question that in fact he would not support a newspaper which attacked the Government. That, I think, is a terrible statement to make for a democrat because the essence of democracy is precisely to allow freedom of debate not only in this House but generally in town, that is freedom of expression. To try and suppress it from one party by not giving the subsidy that he is giving to the other, I think, that is paying lip service to democracy and I would suggest to the Chief Minister that I don't think he would like to go down in posterity here in Gibraltar as being a person who spoke about freedom but actually acted against it and I hope that he will be able to reconsider his position and act, I think, in a truly democratic manner as far as the press is concerned.

HON CHIEF MINISTER:

Mr Speaker, rather interesting points have been raised but I think I ought to go back a little because, first of all, there is nothing particularly personal about this question, it has a long history and the history of course is the history of increasing costs of publications and restraining the various votes in respect of information department expenses. Let me say that there has been very little - this has a bearing on what I have to say later - there has been very little exchange despite the fact of increasing costs, there have been very little increases in the information departments regular expenses since 1979 to now. In 1979/80 £11,680 were voted for official notices and other things. In 1980/81 £12,620. In 1981/82 £12,800. In 1982/83 £12,600 and a supplementary warrant of £2,200 in respect of publications in the Financial Times and so on, so £12,600 kept more or less to £12,800 despite increasing costs and the estimate for this year is £13,300. In 1979 when the squeeze came it was decided by the Press Office, so I accept full responsibility for it but it was decided by the Press Office, that publications should be kept to a minimum consistent with achieving effective publicity and keeping within the statutory requirements and vote. Notices should also be kept as brief as possible. I may say in respect of one particular newspaper which even though some of the statements made are not true but even in this one there has been no suggestion that it has anything sympathetic to my party in any case, that we have had to restrain the payment of the advertisements which are expected to have a four inch column and they have put eight inches or twelve inches and then they afterwards charge for more and we don't pay them. So it isn't all that easy and some people haven't even got the machines with which to do it, anyhow, we have had to restrain it that way. In 1979, Gibraltar Libre queried the decision that Government would not advertise in any newspapers because sufficient publicity was already achieved through the present newspapers. At about that time the Calpe News had also complained about not receiving official notices and newspapers were then asked to submit audited circulation figures and these were given by the Gibraltar Chronicle, Panorama, Gibraltar Evening Post, Gibraltar Libre and Calpe News. No figures were given by Vox. These figures were submitted to the Chairman of the Expenditure Committee which was looking into cuts wherever it was possible. When the paper The People appeared the same line was taken in that Government's requirements were already well covered. The Government also used its judgement in deciding whether it would get value for money in each particular case and also took into account the extent to which a particular publication was of a general news value as opposed to acting as the organ of a

political party. Here we come to, perhaps, the most important part of the problem and that is what is a newspaper? The Leader of the Opposition has been continuously referring to the paper of his party as a newspaper. Well, is it a newspaper or is it a party organ sheet which has no news whatever but just promoting their own interests and who are the people who take part in that? In the first place let me say quite clearly that I hold no shares, that I hold no interest whatever in the Gibraltar Post or the Panorama and that if they published what I like they wouldn't publish a lot of things that they publish. Let me just show you what Panorama said yesterday. Unfortunately MacAvilla on this occasion was writing in Spanish, but this is supposed to be the paper that supports my party. He is supposed to be talking to a man called Julio and look at the insidious way in which it undermines my party - I am translating as I go along: "Julio who has always been of the AACR desde siempre - from ever - thinks with all due respect that the party for which he had voted traditionally in all the elections appears to be tired after so many years in power. There are no new ideas. He asked me whether I understand it and I tell him yes. And he said: "Would you vote again for the AACR?" He said: "Well, I might perhaps abstain but that would not be fair", and it goes on criticising the AACR. I don't care, it is published in Panorama, I don't complain to Mr Joe Garcia who happens to be a friend of mine because he publishes that and Licudi, of all people, not this week but other weeks, he has called us all sorts of names and he is a very good friend of mine but he has called us all sorts of names. I respect that but I have no shares. If we talk about The Democrat, The Democrat is purely a party proganda organ which starts, before the election has started, by heading a leading article "Vote for the DPBG", when we haven't even started the elections yet and whose editor is a prospective candidate and whose shareholders according to my information are two Hon Members of this House, Messrs Haynes and Scott, and the other two are the prospective candidates, young Mr Hoare and Rosado. These are the people who run The Democrat who I understand, and let me tell the Hon Leader of the Opposition that unlike him I do not read all the papers, I do not, they make me sick and therefore I don't read them. What I am told the paper devotes its time to is either ridiculing the individual Members of my party or proclaiming the virtues of their party. We would be happy to receive audited figures of sale to see whether it has sufficient dissemination to be able to justify the expense of the money of the Government in advertising. Let me say without revealing figures that the three papers which I mentioned before: the Post, Panorama and the Chronicle go well above the thousand mark. Perhaps if we could get that figure we might perhaps even be able to judge how much the advertisements are worth

and then we might be able to consider if there are sufficient numbers published whether it is worthwhile but for that we would have to have figures as we demanded in 1979. The freedom of the press is of course something which we all want to support. I remember being instrumental in 1945 in having the old law of requiring a licence to run a newspaper advocating for its removal and obtaining it before we had a Legislature by direct representation to the Government, there was no elected Government. It is not true to say that we only publish in papers that are friendly to the Government. I don't know that the Chronicle is friendly or unfriendly, I think there was a suggestion that the Chronicle no longer published full reports of this House, I don't know whether the Hon Member was talking about any other paper that doesn't publish now traditionally the House. My relations with the Chronicle are the same as anybody else's relation except that they are reasonably near neighbours of my Chambers. I know the journalists, of course I know them. I know all the journalists in Gibraltar but here we come to another point. There are papers which are run by professionals whose livelihood is the running of newspapers and that is the case with Panorama, with Vox, with the Post and with the Gibraltar Chronicle. They are newspapers in the true sense of the word, are seen to be such and behave as such and give news on a variety of things for the general interest of people. I know, I have experience of the fact that The Democrat is distributed free in many places. I can swear an affidavit to that any day. I went into a closed house one day whose owner had died and there were copies of The Democrat put under the door and the woman had not been able to become a subscriber of The Democrat because she died before The Democrat started to work. I know what propaganda is and what newspapers are, I have the copies actually, I kept them as a matter of interest, just put under the door.

MR SPEAKER:

You have two minutes left.

HON CHIEF MINISTER:

All I would like to say, Mr Speaker, is that in exercising the discretion it is not exercised in the sense of trying to benefit the party or to punish anybody, it is that the money is limited, we put the money to the best value, we have not had any figures of sale of The Democrat, not given away sale, audited figures, and we have to carry the same criteria that we have done with Gibraltar Libre, The People and Calpe News which are purely sheets of paper printed in order to advance the political interest of a party and have no appeal to the general public

and if they had appeal to the general public then of course that would be shown in the sales. Mr Speaker, I am not exercising any kind of censorship at all, I have nothing to do with the Post or with the Panorama except that I am very friendly with them, they write things I don't like sometimes, sometimes they write things I like but that is their business and not mine whereas the editor of The Democrat is a prospective candidate who appeared on television the other night, the shareholders are Members of this House and if that is not an involvement in a party paper I don't know what is.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion that the House adjourn sine die which was resolved in the affirmative.

The adjournment of the House sine die was taken at 5.30 pm on Tuesday the 13th December, 1983.