

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 Loddio
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 Canepe 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 over-time 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 158 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 burning 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 Gibraltarian 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 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". 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.